PAC No .473

PUBLIC ACCOUNTS COMMITTEE

(1975-76)

(FIFTH LOK SABHA)

HUNDRED AND SEVENTY-SEVENTH REPORT

UNION EXCISE DUTIES

[On paragraphs of the Report of the Comptroller and Auditor General of India for the year 1971-72, Union Government (Civil), Revenue Receipts, Volume I, Indirect Taxes relating to Union Excise Duties.]

LOK SABHA SECRETARIAT
NEW DELHI

November, 1975/Kartika, 1897 (S)

Price: Rs. 3.60 P.

LIST OF AUTHORISED AGENTS FOR THE SALE OF LOK SABHA SECRETARIAT PUBLICATIONS

Sl. No.	Name of Agent
	ANDHRA PRADESH
1.	Andhra University General Cooperative Stores Ltd., Waltair (Visakhapatnam).
2	G. R. Lakshmipaty Chetty and Sons, General Merchants and News Agents, Newpet, Chandragiri. Chittoor District.
	ASSAM
3.	Western Book Depot, Pan Bazar, Gauhati.
	BIHAR
4.	Amar Kitab Ghar, Post Box 78, Diagonal Road, Jamshedpur.
5.	M/s. Crown Book Depot, Upper Bazar, Ranchi.
	GUJARAT
6.	Vijay Stores, Station Road, Anand.
7.	The New Order Book Company, Ellis Bridge, Ahmedabad-6.
	HARYANA
8.	M/s. Prabhu Book Service, Nai Subzi Mandi, Gurgaon.
	MADHYA PRADESH
9.	Modern Book House, Shiv Vilas Palace, Indore City.
	MAHARASHTRA
10.	M/s. Sunderdas Gianchand, 601, Girgaum Road, New Princess Street, Bombay-2.
11.	The International Book House, (Private) Limited, 6, Ash Lane, Mahatma Gandhi Road, Bombay-1
12.	The International Book Service, Deccan Gymkhana, Poona-4.
13.	Charles Lambert & Company, 10, Mahatma Gandhi Road, Opposite Clock Tower Fort, Bombay.
14.	The Current Book House, Maruti Lane, Raghunath Dadaji Street, Bombay-1.
15.	Deccan Book Stall, Fergusson College Road, Poona-4.
16.	M.& J. Services, Publishers Representatives, Accounts & Law Book Sellers, Bahri Road, Bombay-15
	MYSORE
17.	People Book House, Opp. Jaganmohan Palace, Mysore.
	RAJASTHAN
18	Information Centre, Government of Rajasthan, Tripolia, Jaipur City.
19.	M/s. Usha Book Depot, 585/A, Chitra Bazar, Tripolia, Jaipur.
	UTTAR PRADESH
20.	Law Book Company, Sardar Patel Marg, Allahabad-1.

CORRIGENDA TO HUNDRED AND SEVENTY SEVENTH REPORT OF PUBLIC ACCOUNTS COMMITTEE (1975-76) PRESENTED TO LOK SABHA ON 19.1.1976.

Page	Para	Line	For	Read
CONTENTS		14	19.11.1973(FN)	19.11.1973(AN)
4	1.7	1 of the Foot Note	After the word 'Report' add 'of'.	
9	2.1	8	Delete the word 'for' after Act, 1944,	
13		7	prices system	price system
15		1 of the Foot Note	nfurther	On further
27		7	rebated	rebate
27		5 of the Table	1740.15 115	1740x15 115
28	3.21	4	instruction	instructions
48	7.5	3	'Noyet'	'Not yet'
57	9.7	15	in	is
60	9.13	5	in	the
66	11.4	6	11th	111th
76	13.2	5	duly	duty
		8	Add the words "rate of Rs. 90 per month. Fixation of low rate of compounded" after pounded.	
82		28	merchant	merchants
83	14.8	8	why	when
87	15.6	16	of	or
92	15.11	6	which	whichever
95	16.6	2	where	when
95	16.10	2	refineriesG.	refineries
97	17.5	5	ThGis	This
113		1	have	leave
138		11 (column 4)	Add been after	have.
143		2 (column 4)	as	was
160		5 (column 4)	which	whichever

PARLIAMENT LIBRARY
(Library Reference Service)
Central Govt. Publications
Acc. No. R 43998(6)
Date 22.1.76

CONTENTS

	PAGE
COMPOSITION OF THE PUBLIC ACCOUNTS COMMITTEE	(iii)
INTRODUCTION	(v)
REPORT	1

APPENDICES

I.	Statement showing the review of compounded rates of duty conducted by the Director of Inspection	120
II.	Statement showing number of cases involving demands not issued due to time-bar/withdrawn	121
III.	Statement showing details of seven cases involving loss of duty due to time-bar	125
IV.	Summary of main conclusions/recommendations	131

PART II*

Minutes of sittings of the Committee, held on 17-11-1973 (FN & AN) and 19-11-1973 (FN)

*Not printed. (One cyclostyled copy laid on the Table of the House and five copies placed in Parliament Library.)

PUBLIC ACCOUNTS COMMITTEE

(1975-76)

CHAIRMAN

Shri H. N. Mukerjee

MEMBERS

2. Shri T. Balakrishniah
3. Shri Chandulal Chandrakar
4. Shri Chandrika Prasad
5. Shri Darbara Singh
6. Shri C. C. Gohain
7. Shri Pampan Gowda
8. Shri Raja Kulkarni
9. Shri Shyam Sunder Mohapatra
10. Shri Priya Ranjan Das Munshi
11. Shri Narendra Singh
12. Shri Noorul Huda
13. Shri Shibban Lal Saksena
14. Shri N. K. Sanghi
15. Shri Somchand Solanki
16. Shri Mohammed Usman Arif
17. Shrimati Pratibha Singh
18. Shri V. B. Raju
19. Shri Gulabrao Patil
20. Shri T. K. Srinivasan
21. Dr. K. Mathew Kurian
22. Shri Rabi Ray

SECRETARIAT

Shri H. G. Paranjpe—*Chief Financial Committee Officer.*
Shri N. Sunder Rajan—*Senior Financial Committee Officer.*

INTRODUCTION

I, the Chairman of the Public Accounts Committee, as authorised by the Committee, do present on their behalf this Hundred and Seventy-Seventh Report of the Public Accounts Committee (Fifth Lok Sabha) on paragraphs relating to Union Excise Duties included in the Report of the Comptroller and Auditor General of India for the year 1971-72, Union Government (Civil), Revenue Receipts, Volume I, Indirect Taxes.

2. The Report of the Comptroller & Auditor General of India for the year 1971-72, Union Government (Civil)—Revenue Receipts, Volume I, Indirect Taxes was laid on the Table of the House on the 25th April, 1973. The Committee (1973-74) examined the paragraphs relating to Union Excise Duties at their sittings held on the 17th and 19th November, 1973. The Committee (1975-76) considered and finalised this Report at their sittings held on the 28th August and 8th November, 1975 based on the evidence taken and further information furnished by the Ministry of Finance. Minutes of these sittings form Part II* of the Report.

3. A statement containing the summary of the main conclusions/recommendations of the Committee is appended to the Report (Appendix IV). For facility of reference these have been printed in thick type in the body of the Report.

4. The Committee place on record their appreciation of the commendable work done by the Public Accounts Committee (1973-74) in taking evidence and obtaining information for this Report.

5. The Committee place on record their appreciation of the assistance rendered to them in the examination of these paragraphs by the Comptroller & Auditor General of India.

6. The Committee would like to express their thanks to the officers of the Ministry of Finance for the cooperation extended by them in giving information to the Committee.

NEW DELHI;
November 27, 1975.
Agrahayana 6, 1897 (*S*).

H. N. MUKERJEE,
Chairman.
Public Accounts Committee.

*Not printed. (One cyclostyled copy laid on the Table of the House and five copies placed in the Parliament Library.)

UNION EXCISE DUTIES

Audit Paragraphs

The receipts under Union Excise duties during the year 1971-72 were Rs. 2,061.10 crores. The receipts for the last five years along with the corresponding number of commodities on which excise duty was levied are given below:—

Year	Receipts under Union exise duties (crores of rupees)	Number of commodities on which duties were levied
1967-68	1,148·25	69
1968-69	1,320·67	75
1969-70	1,524·31	81
1970-71	1,791·44	91
1971-72	2,061·10	116*

1.2. The break up of the receipts for 1971-72 is shown below, along with the corresponding figures of 1970-71:—

Heads of Account	Actuals for 1971-72	Actuals for 1970-71
	Rs.	Rs.
A. Shareable duties :		
Basic excise duties	17,05,09,88,549	14,66,72,73,100
Additional excise duties on Mineral Products	1,19,81,88,489	1,07,95,39,650
TOTAL (A)	18,24,91,77,038	15,74,68,12,750
B. Duties assigned to States :		
Additional excise duties in lieu of Sales Tax	1,05,51,47,611	73,96,80,266
C. Non-shareable duties :		
Special excise duties	1,16,98,46,522	1,05,14,02,797

*Does not include changes brought about by the Finance Bill presented on 16th March, 1972.

Heads of Account	Actuals for 1971-72	Actuals for 1970-71
	Rs.	Rs.
Regulatory excise duties	17,79,16,182	1,71,302
Other duties	76,45,899	67,02,514
Newspapers and other printed Periodicals	78,32,917	..
TOTAL (C)	1,36,32,41,520	1,05,82,76,613
D. Cesses on commodities	29,47,78,409	28,52,75,590
E. Miscellaneous	1,75,54,245	2,80,91,781
Gross receipts	20,97,98,98,823	17,85,81,36,980
F. *Deduct*— Refunds and Drawback :		
A. Shareable duties :		
1. Basic excise duties	(—)13,97,37,271	(—)10,37,78,531
2. Additional excise duties on Mineral products	(—)2,52,648	(—)89,367
TOTAL—(A) (Refunds etc.)	(—)13,99,89,919	(—)10,38,67,898
B. Duties assigned to States :		
Additional excise duties in lieu of Sales Tax	(—)26,15,041	(—)17,21,393
C. Non-shareable duties— namely Special excise duties, Regulatory excise duties, Other duties	(—)43,05,768	(—)21,29,592
D. Cesses on commodities	(—)5,10,013	(—)5,76,422
E. Miscellaneous	(—)22,15,09,176	(—)16,43,60,561
TOTAL—Refunds and Drawback	(—)36,89,29,917	(—)27,26,55,866
Net receipts	20,61,09,68,906	17,58,54,81,114

1.3. The budget figures, actual realisation and variations are shown below :—

(In crores of rupees)

	Budget estimates	Actuals	Variations	Percentage
Union Excise duties	2,071·56	2,061·19	(—)10·46	0·5

1.4. The following commodities accounted for receipts more than Rs. 30 crores each.

		(Rs. in crores)
1.	Sugar	167
2.	Tea	36
3.	Un-manufactured Tobacco	84
4.	Cigarettes	193
5.	Motor Spirit	220
6.	Kerosene	123
7.	Refined Diesel Oil & Vap. Oil	264
8.	Furnace Oil	32
9.	Tyres and Tubes	63
10.	Rayon and Synthetic fibres and yarn	90
11.	Cotton Yarn	35
12.	Cotton Fabrics	83
13.	Cement	49
14.	Iron or steel products	82
15.	Aluminium	37
16.	Motor vehicles	36

Salient features

1.5. 25 new commodities were brought under central excise levy for the first time under the Finance Act, 1971 (operative with effect from 29th May, 1971). Exemptions given to certain gases and agricultural tractors from excise duties were withdrawn with consequential automatic imposition of levies. Further, "Newspapers and all other Printed Periodicals" were brought under central excise levy with effect from 15th November, 1971 under Ordinance No. 16 of 1971, subsequently enacted by a law passed by Parliament. The enabling provisions of Section 7 of Finance Act, 1971 were invoked for the first time for levy of regulatory duty of excise with effect from 13th December, 1971 on the following commodities:—

S. No.	Item No. of the First Schedule to the Central Excise Act	Description
1.	4(1)	Unmanufactured Tobacco.
2.	22A(ii)	Jute manufactures.

S. No.	Item No. of the First Schedule to the Central Excise Act.	Description
3.	26	Steel ingots including steel melting scrap.
4.	26A	Copper and Copper alloys containing not less than fifty per cent by weight of copper.
5.	26AA	Iron or Steel Products.
6.	26B	Zinc
7.	27	Aluminium
8.	28	Tinplate and Tinned sheets including tin taggers and cuttings of such plates, sheets or taggers.

1.6. With the introduction of the budget for 1972-73, on 16th March, 1972, special excise duties were abolished with effect from 17th March, 1972.

1.7. All the commodities were assessed to duty under the "Self Removal Procedure" during 1971-72 except unmanufactured tobacco which continued to be assessed under "Physical Control Procedure."

[Paragraph Nos. 22, 23, 24, 25 & 26 of the Report the Comptroller & Auditor General of India for 1971-72—Union Government (Civil)—Revenue Receipts—Vol. I—Indirect Taxes relating to Union Excise Duties]

1.8. During the course of evidence, the Committee pointed out that during 1967-68 there were only 69 commodities brought under excise levy and these yielded revenue of Rs. 1148.25 crores. Since then, the number of commodities brought under the levy has increased to 116 in 1971-72 which yielded a revenue of Rs. 2061.10 crores. There has thus been an increase of revenue by Rs. 912.85 crores. The Committee desired to know how much of this increase had been due to (i) higher production and their clearances and higher prices (ii) increase in the duty and (iii) addition of new items of commodities under the levy. The Secretary to the Department of Revenue and Insurance replied: "I am afraid we have not got a very clear picture in this regard. But we have got some information. Out of Rs. 913 crores increase, the increase of Rs. 90 crores was due to the introduction of new levies on new commodities, about Rs. 344 crores was due to the increase in the rates of duties on existing commodities—I am giving you round figures—and the balance of about Rs. 478 crores was due to the increase in clearance in production and prices *ad valorem* duties. Unfortunately, I am not able to get a break-up, as

to how much of this was due to these three or four causes, that is, increase in production, increase in prices and increase due to change-over from specific to *ad valorem* duties."

1.9. Subsequently, in a note the Ministry stated that in view of the frequent changes in the tariff, it is not possible to furnish accurate break-up figures of revenue under various heads mentioned in the list against this point. However a rough and ready estimate has been made.

1.10. According to AG's figures the net Central Excise during 1967-68, 1971-72 and 1972-73 was of the order of Rs. 1148.25 crores, Rs. 2061.10 crores and Rs. 2324.25 crores respectively. Thus the increase in revenue in the year 1971-72 and 1972-73 over 1967-68 was Rs. 912.85 crores and Rs. 1176.00 crores respectively. The increase is due to—

	1971-72 (Rs. crores)	1972-73 (Rs. crores)
(i) Normal growth of revenue in respect of 69 excisable commodities of the year 1967-68 . . .	498·34	542·20
(ii) Revenue realisation in respect of commodities which were not excisable in the year 1967-68 .	89·97	132·83*
(iii) Other causes including changes in rates of duty from year to year in respect of 69 excisable commodities of 1967-68 and changes in the system of levy of some of these commodities from specific to *ad valorem* rate etc.	324·54	500·97
	912·85	1176·00

1.11. The Committee pointed out that out of 116 commodities under excise levy during 1971-72 with a total yield of Rs. 2061.10 crores, 16 commodities yielded more than Rs. 30 crores each and their total yield was Rs. 1594 crores, *i.e.* 77 per cent of the total revenue. The remaining 100 commodities have, therefore, yielded only Rs. 467.10 crores *i.e.* 23 per cent of the total revenue. The Committee asked whether, in view of this position, it would not be advisable to consider seriously the delicensing of such units or commodities which involve lot of manpower and efforts without substantial revenue

*Includes Rs. 2·52 crores and Rs. 15·27 crores realised from Jute Twist Yarns and Yarn in sorts N.E.S. (Not otherwise specified).

advantage. The Secretary replied: "As such I accept your suggestion.....I would accept the point that those commodities where the excise yield is much less, compared to the number of factories which are involved and in comparison to the effort which the Department has to make, needs a review. We have got some information about these. Out of 116 commodities 16 commodities mentioned in (Audit) para 25 yield more than 75 per cent revenue. Out of the remaining about 35 commodities yield less than Rs. one crore (each). The total yield from these commodities was Rs. 10.53 crores which works out to 0.5 per cent of the total excise revenue of Rs. 2061 crores. That means that there are at least 35 commodities which yield a very small percentage of the total central excise revenue. We have also got a statement showing the factories which pay annual revenue according to certain categories. This information was collected because the S.R.P. Committee had requested for it and according to this statement, it appears that out of 24,193 factories about 15,243 account for a revenue of 7.44 crores which amounts to .37 per cent out of the total. I would readily accept your proposition that this needs to be reviewed. There are only one or two points which I would like to urge in this regard in carrying out this review. Government has been trying to levy more taxes on items, unessential items, which are consumed by the more affluent sections of the society. There also, while considering the yield from these commodities, we take into account the factor of administrative convenience. If the number is small and the control is very easy, then even though it may not yield much revenue, we take it up under this. Long-playing gramophone records are like that. Then there are also certain commodities which may not yield immediate revenue, but which have got a growth potential, and we have found out that although at the time of the levy, the collections were very much less, they have given us on a whole a larger collection in the next year. For example, the revenue from glucose and preparations from it on which we levy an excise duty during 1971-72 was Rs. 85 lakhs. But in the year 1973-74 it is Rs. 130 lakhs. Similarly, for power driven firms the revenue was only Rs. 6 lakhs and in 1973-74 it is Rs. 220 lakhs. So, these are the two things which we keep in view the administrative feasibility of collecting revenue and the growth potential of these commodities. But I would readily accept that we should take a review, and I propose to take a review after taking into account the recommendations of the S.R.P. Committee in this regard."

1.12. According to information furnished by the Ministry at the instance of the Committee, the total number of commodities under Union Excise levy during the year 1972-73 was 118 and the total

gross revenue Rs. 2373.02 crores. The following are the commodities which yielded a revenue of more than 30 crores each during 1972-73:

	Name of commodity	Revenue (Rs. crores)
1.	Refined Diesel Oil	283·79
2.	Motor Spirit	228·18
3.	Cigarette	195·72
4.	Sugar including Khandsari	177·26
5.	Iron & Steel Products	148·16
6.	Kerosene	137·91
7.	Rayon Yarn	104·97
8.	Unmanufactured Tobacco	93·10
9.	Cotton Fabrics	81·65
10.	Tyres & Tubes	69·46
11.	Cement	54·89
12.	Aluminium	45·85
13.	Petroleum Products	43·45
14.	Motor Vehicles	37·29
15.	Fertilizers	35·38
16.	Plastics	34·10
17.	Cotton Yarn	33·65
18.	Jute manufactures	32·55
19.	Tea	31·51
20.	Paper	31·18
	TOTAL	1900·05

1.13. The following table shows the number of commodities yielding revenue less than Rs. 1 crore, the revenue realised on them and the percentage of the revenue to the total excise revenue during each of the years 1971-72 and 1972-73:

	Commodities		Revenue realised		Percentage of Revenue to total gross revenue	
	1971-72	1972-73	1971-72	1972-73	1971-72	1972-73
	No.		(Rs. in lakhs)		%age	
1. Commodities yielding revenue less than Rs. 25 lakhs	19	14	219	141	0·11	0·05
2. Commodities yielding more than Rs. 25 lakhs but less than Rs. 50 lakhs	9	12	321	446	0·15	0·18
3. Commodities yielding more than 50 lakhs but less than Rs. one crore.	7	8	513	578	0·24	0·24
TOTAL	35	34	1053	1165	0·5	0·47

1.14. The Committee note that the number of excisable commodities increased from 69 in 1967-68 to 116 in 1971-72 and 118 in 1972-73. Out of 116 commodities under excise control during 1971-72, 6 commodities yielded revenue of more than Rs. 30 crores each. The amount of revenue yielded by these commodities was Rs. 1594 crores which constituted about 77 per cent of total receipts from Union Excise Duties (Rs. 2061 crores). During the year 1972-73, out of 118 excisable commodities, 20 commodities yielding more than Rs. 30 crores each accounted for revenue of Rs. 1900 crores out of the total gross revenue of Rs. 2373 crores; which works out to 80 per cent.

1.15. During the year 1971-72 there were 35 excisable commodities which yielded revenue less than Rs. 1 crore each, the total amount of revenue being only Rs. 10.53 crores. Out of these, 28 commodities yielded less than Rs. 50 lakhs each, the total revenue being Rs. 5.40 crores. Again during the year 1972-73, there were 34 excisable commodities which yielded less than Rs. 1 crore each, the total revenue realised being Rs. 11.65 crores. Out of these, 26 commodities yielded less than Rs. 50 lakhs each, the total revenue amounting to Rs. 5.87 crores. The Committee were also informed that out of 24,193 licensed factories, about 15,243 factories account for a revenue of Rs. 7.44 crores amounting to 0.37 per cent of the total receipts.

1.16. In paragraph 1.9 of their 44th Report (1971-72), the Committee had observed that taxing commodities which yield less than Rs. 50 lakhs a year particularly those produced by small units dispersed throughout the country was not worthwhile as they would involve disproportionate cost of collection. The Committee also suggested in paragraph 1.8 of their 83rd Action Taken Report (1972-73) that the cost of collection of duties on commodities yielding low revenue that are produced by a large number of small units should be computed on some feasible basis, so that it could be decided whether it was worthwhile taxing them. During evidence, the Finance Secretary agreed that a review was needed in respect of those commodities where the excise yield was much less compared to the number of factories which were involved and the effort that the Department had to make. This review is proposed to be taken by the Department after taking into account the recommendations of the Self Removal Procedure Review Committee which are now available. The futility of taxing commodities produced by small units dispersed throughout the country which do not yield substantial revenue but involve disproportionate cost of collection has thus been engaging the attention of the Committee since 1971-72, but it is regrettable that this question has yet to be reviewed by Government. The Committee are anxious that Government seriously examines this long pending

issue and reach expeditiously a policy decision which will tone up the country's financial position.

Under-assessment due to non-revision of Assessable value of Motor Vehicles

Audit Paragraph

2.1. A factory manufacturing motor vehicles assessable to duty on *ad valorem* basis, under tariff item 34, increased the wholesale cash price of certain types of vehicles, from 5th September, 1969 and 27th September, 1970. However, the manufacturer continued to clear such types of vehicles, on paying duty calculated on the lower values declared by him earlier and approved by the department. It was pointed out in audit that, according to Section 4 of the Central Excise Act, 1944, for the wholesale cash price actually charged by the Manufacturer should be taken into account for purposes of assessment of duty.

2.2. Accepting the objection, and on a review of cases where short assessments were made, the department raised necessary demand for duty amounting to Rs. 2,78,635.

2.3. The Ministry have replied that the Range Officer was aware of the increase in prices in November, 1969 itself and that the clearances were also continued by adopting the earlier value till the filing of the final price list in January, 1971.

2.4. Under the "Self Removal Procedure" the first step in assessment is getting the price list approved, whenever any increase takes place in prices and only after such approval, goods could be cleared from the place of manufacture *vide* Rule 173C of the Central Excise Rules.

[Paragraph 28(a) of the Report of the Comptroller and Auditor General of India for 1971-72—Union Government (Civil)—Revenue Receipts—Vol. I—Indirect Taxes relating to Union Excise Duties].

2.5. The Committee learnt from Audit that the price increase was effected in this case relating to Ashok Leyland Ltd. Madras, by raising supplementary invoices and this included those Vehicles supplied to Defence department also. The increase in price was Rs. 617 per Vehicle in some cases, Rs. 5265 in cases of another type and Rs. 5,394 in the case of a third type of vehicle. Ashok Leyland Ltd. filed price lists only on 12-11-1969. In one case even the price list filed on 5-1-1971 did not show increase in prices which the company enforced even earlier to December, 1970.

2.6. Rule 173(C) of the Central Excise Rules, 1944 requires that, (1) Every assessee, who produces, manufactures or warehouses goods which are chargeable with duty at a rate dependent on the value of the goods, shall file with the proper Officer for his approval a price list, in such form and in such manner and at such intervals as the Collector may require, showing the price of each of such goods and the trade discount, if any, allowed in respect thereof to the buyers.

(2) The proper Officer shall approve the price list after making such modifications as he may consider necessary so as to bring the value shown in the said list to the correct value, for the purpose of assessment as provided in section 4 of the Act. He shall thereafter return one copy of the list approved as aforesaid to the assessee who shall, unless otherwise directed by the proper Officer, determine the duty payable on the goods intended to be removed in accordance with such list.

(3) If in the list approved by the proper Officer under sub-rule (2) any alteration becomes necessary for any reason, the assessee shall likewise file a fresh list or an amendment of the list already filed for the approval of such officer.

These requirements were not complied with in this case.

2.7. During the course of evidence, the Committee enquired whether in this case the assessee complied with the rules. The Chairman of the Board of Central Excise and Customs replied, "There are no price controls on heavy vehicles. But, suppose a contract has an escalation clause and on a subsequent date they raise the value, right at the stage they should have obtained the approval. Although the price was approved, when they issued a supplementary invoice, they should have done so." Subsequently, in a note, the Ministry stated that, "Under Rule 173(C) (3) assessee is enjoined upon to file price list in case of any alteration in prices. He failed to file price lists for increased prices of vehicles firstly for all the models involved and secondly for the actual amount of increase charged by him through supplementary invoices."

2.8. The Committee asked what action had been taken against the assessee, the Secretary replied: "The Collector will adjudicate that point also". Subsequently, in a note the Ministry state that "penalty of Rs. 100/- was imposed and duty of Rs. 2,78,634.75 was demanded by the Superintendent. The total amount of Rs. 2,78,635/- has since been realised."

2.9. The Committee also enquired what action could be taken against the assessee for infringement of rules. The Ministry stated that, "subject to circumstances of each individual case and gravity of offence, Rule 173Q prescribes a maximum penalty of not exceeding 3 times the value of the offending goods or Rs. 5000/- whichever is greater besides confiscation of property, etc. connected with the offence."

2.10. As regards evasion of excise duty, the witness stated during evidence: "When it came to our notice regarding certain motor vehicles, we asked the Collector to make a special audit survey of all the motor vehicles factories. It is a fact that in..... (this factory) various irregularities were noticed and the matter is now with the Collector." When asked what was the total amount evaded by this assessee, the witness replied: "I would not be able to say the total amount, but I think Rs. 11 lakhs have already been paid by them." The Secretary to the Department added: "There are three types of transactions in the case of M|s. Ashok Leyland Ltd. One was a transaction with Defence; the other was a transaction in which they sold to other parties; the third was a transaction in which they sold the vehicles in retail. Now, so far as Defence is concerned, there was no escalation clause in the contract and I am told that the Defence has not yet paid any increase in price even though they were pleading for it. Therefore, so far as Defence vehicles are concerned, there is no question of charging a higher duty what was paid. This will apply only to the vehicles which were sold to the other parties, where they raised the price but did not pay excise on the differential price they were charging. So far as retail price is concerned, they have paid duty on the retail price of the vehicles, so that we have collected what was due from them in the case of vehicles which were sold in retail. So we have ordered an Audit Party to go and look into all the transactions which have taken place and then submit a report as to whether there is excise duty which is leviable on certain types of transactions and whether certain refunds are due in certain transactions." When asked whether the refund, if any, will have to be given to the manufacturer or buyer, the Secretary replied: "The refund will have to be given to the manufacturers and the manufacturers will have to give that refund to the buyers." To a question whether that would be possible, the Secretary replied: "That is the position." He further stated: "This whole thing will have to be looked into very carefully. It is before the Collector now for adjudication and we shall have to await the adjudication proceedings."

2.11. The Committee desired to know whether Government had ensured that the demands had been raised for the entire period

covered by the price increases. In a note, the Ministry stated that, "a special audit of the company's accounts was conducted and a total amount of differential duty of Rs. 11,07,102.67 P has been paid by the party without prejudice to their stand on a show cause notice issued to them as a result of several irregularities, including price increase, detected on special audit."

At the instance of the Committee, the Ministry of Finance furnished a factual note in this case which is reproduced below:

"A special full scale audit of M|s. Ashok Leyland Ltd. was conducted in January, 1973, as desired by Board. As a result of this audit and further follow-up actions three offence cases have been registered against the Company, details of which are given briefly as under:—

1. In the first case contravention of rules 173-B, 173-C, 173-F and 173-G read with rule 173-Q of the Central Excise Rules, has been observed on the following points:—

(a) Clearances during the period 1-6-68 to 31-12-72 of certain vehicles on fitment of optional tyres in lieu of standard tyres for which the prices have been furnished and got approved.

(b) Clearances of vehicles during the period 1-6-68 to 31-12-72 charging prices in excess of the prices reported by them and got approved by the Department, without filing revised price lists.

(c) Clearance of certain vehicles from 1-6-68 to 31-12-72 on the basis of the prices for chassis declared by them, but after fitment of the all steel cabs for the dumpers without including the value of the steel cab.

(d) Clearance during the period 1-6-68 to 31-12-72 of certain parts and accessories alongwith the vehicles without including the value of such parts and accessories for the purposes of assessment.

The amount of short-levy originally calculated was Rs. 11,07,102.67. This amount was deposited by the party and adjusted in the Personal Ledger Account, without prejudice to their right to plead against some of the short-levies pointed out in the Show Cause Notice. Subsequently, on a further scrutiny of the records, the Department had revised the amount of show cause notice from Rs. 11,07,102.67 to Rs. 12,52,029.92. The show cause notice was issued on 16-4-73. The party had applied for time to furnish reply. This

was also given. Subsequently, they sought personal hearing also. Personal hearing was given on 13-11-73 and 28-12-73. During the personal hearing on 28-12-73, the Company requested for a month's time to enable them to search for some more records and to produce them before the departmental officers for a further check up.

It may incidentally be mentioned that M|s. Ashok Leyland Ltd. had originally declared a three-tier prices system (i) net dealers price (ii) prices of the vehicles supplied to Government through D.G.S.&D. and (iii) retailers price. For some time this three-tier price system was approved, but subsequently the party was informed by the Range Officer to file a price list with one price. The party did not agree with this and this dispute was taken in appeal to the Appellate Collector of Central Excise. The Appellate Collector has remitted this issue to the Assistant Collector for *de novo* enquiry and adjudication. In the meanwhile, the party has been paying duty based on the prices charged for Government *i.e.* the middle price.

2. In the second case, the Company manufactured without a licence between the period 29-5-71 to 30-6-73, tie-rod ends in contravention of rule 174, did not file classification|price list as required in rule 173-B|173-C and they have not also opted for the procedure under Chapter X of the Central Excise Rules for use of such parts in the manufacture of the motor vehicles and they have not proved to the satisfaction of the Collector that the aforesaid parts are intended to be used as Original Equipment parts. The duty evaded comes to Rs. 26,235 24. Show Cause Notice was issued on 29-8-73, by the Assistant Collector answerable to Deputy Collector of Central Excise, Madras. Reply was received from the Company on 24-9-73. The case has since been taken on the file of Collector. A memo has been issued to the party to send further reply to the Show Cause Notice, if any, to the Collector. Personal hearing has to be given to the party.

3. In the third case, the Company had taken a L-6 licence for availing of the exemption contemplated in the notification No. 101|71 dated 29-5-71 (as amended bringing certain Motor Vehicle parts specified in that Notification). They are intended for use as Original Equipment parts under the procedure set out in Chapter X of the Central Excise Rules, 1944. However, the company have utilised the parts in the manufacture of such assemblies and internal Combustion Engines, which had been cleared by them without further being used in the manufacture of Motor Vehicles. Show Cause Notice was issued on 8-10-73 as to why duty amounting to Rs. 2,45,593.13 should not be demanded from them since they have

cleared the motor vehicle parts in a manner not contemplated in the Notification referred to above.

In their reply dated 1-12-73 the Company have admitted the irregularity and have expressed their desire to pay the amount of short levy as shown in the Show Cause Notice. No personal hearing has been sought for, but they have requested to take lenient view. The case will be adjudicated soon."

2.13. According to the Ministry of Finance, the prices of such vehicles were decontrolled from May, 1967, for light commercial vehicles; from September 15, 1967 for other commercial vehicles for civilian market and from September 27, 1968 for defence market. During evidence the Committee enquired what instructions were issued by the Board on decontrol of prices to the assessing officers. The witness replied: "No special instructions were issued; but when the prices go up, it is the duty of the manufacturers to issue separate price lists indicating the prices they are charging." The Committee enquired what were the normal channels by which the department came to know of such cases. The Ministry stated: "Through Inspection|Audit by Inspection Group or Internal Audit Parties or on verification of prices by the Range Officer."

2.14. The following table complied on the basis of information furnished by the Ministry at the instance of the Committee shows the types of vehicles on which the manufacturer increased the rates, the dates from which the increases were effected and the dates when the Department came to know of these increases:

	Type of vehicles	Date from which increases effected	Date on which the Deptt. came to know of the increases	Remarks
1.	HIPPO ALH/1/1	28-6-1969	12-11-1969	
2.	,, ,, 1/3	Feb. 1970	12-11-1969	(Price increase..... was given retrospective effect from 1-12-1970).
3.	,, ,, 1/5 ALJ 1/1	26-9-1970	5-11-1971	
4.	,, ALH 1/4	12-9-1969	12-11-1969	However, the fact regarding issue of supplementary invoices by the party was known after receipt of Audit Inspection Report on 4-3-1971.
5.	TITANS ALPD 1/1	Apr., 1971		
6.	BEAVER ALB 1/1	Mar., 1971		
7.	,,			
8.	HIPPO ALH/1/5	1-10-1971		

2.15. The Committee enquired what action was taken by the Department when they came to know of the price increase by the assessee and when was the show cause notice and demand issued in respect of all these cases. The Ministry stated, in a note, that "after receipt of Audit inspection report, check was exercised for a longer period from 28-6-69 to 22-10-71 and a show cause notice for Rs. 2,78,635 being duty evaded on 322 vehicles during the aforesaid period was issued by the Range Officer on 8-11-71 for contravention of Rules 173C. 173F and 173G. Duty of Rs. 2,78,635/- was demanded and Rs. 100/- as penalty was imposed." To a question as to why there was delay in taking the action, the Ministry stated that, "The delay was explained by the Supdt. concerned as being due to his inability to verify the invoices due to strike in the factory." When asked whether the Inspection Party noticed these irregularities, the Ministry replied in the negative.

2.16. The Committee take a very serious view of Ashok Leyland Ltd., removing motor vehicles without intimating the revised prices and getting the approval of the Excise Department, as required under the rules. Considering the gravity of the offence and the amount of duty involved (Rs. 2,78,635), the Committee fear that the imposition of a paltry penalty of Rs. 100 only was a mere eyewash and the authority was apparently more concerned to help the evader Ashok Leyland Ltd. rather than to safeguard Government's vital interest. The Committee deprecate the inordinate delay in completing the assessment documents and raising the demand and desire that responsibility should be fixed for penal action under advice to the Committee.

2.17. The Committee note that as a result of special audit of the factory conducted in January, 1973, three offence cases have been registered against the same company (Ashok Leyland Ltd.) and short levy of duty amounting to Rs. 11.07* lakhs has been recovered in one case which is under adjudication. Two other cases—one regarding manufacture of tie-rod ends without licence for two years and evading duty amounting to Rs. 26,235 and the second one regarding clearance of motor vehicles in a manner not provided in the L-6 licence taken out by the firm for availing of the exemption contemplated in Notification No. 101/71 of 1971 and involving duty amounting to Rs. 2.46 lakhs—are also under adjudication. The Committee would like to know the outcome of the cases immediately. The Committee desire that this case should be investigated by the Central Vigilance Commission and responsibility fixed for any failure on the part of the

*further scrutiny the demand on account of short levy had been revised to Rs. 12.52 lakhs.

Excise officers and penal action taken. The outcome of the investigations and the action taken thereon should be conveyed without delay to the Committee.

2.18. There seems to be something basically wrong with the present system of check followed by the Department which allows evasion of duty going unnoticed over a long time. As the Committee are deeply disturbed about this, they would ask Government in all seriousness to tighten up the checks appropriately forthwith and report to them in detail. The delinquent officials also should be handed firmly.

Audit Paragraph

2.19. As motor vehicles are assessable to duty *ad valorem*, the basis of valuation is the wholesale cash price charged by the manufacturer for a complete vehicle. In a factory manufacturing heavy motor vehicles, the licensee had obtained the necessary price approval for motor vehicles fitted with standard tyres. At the option of individual customers, the manufacturer had also cleared the same type of heavy vehicles fitted with tyres of different specifications. In such cases, the wholesale price charged from the customers was more.

2.20. It was noticed that, though the wholesale cash price was more, the lower assessable value, as approved for motor vehicles fitted with standard tyres, was incorrectly adopted instead of the actual wholesale cash price charged to the individual customers. This resulted in under-assessment of duty to the extent of Rs. 22,996 for the period from 1st October, 1969 to 16th December, 1970.

2.21. When this was pointed out in audit, the department issued a demand for the amount. The Ministry while admitting the facts as substantially correct have stated that the question of taking penal action against the party is under examination.

[Paragraph 28(b) of Chapter II of C&AG's Report for 1971-72, Union Govt. (Civil)—Revenue Receipt Vol. I—Inidrect Taxes]

2.22. The Committee learnt from Audit that this case also related to Ashok Leyland Ltd., Madras and the company had been manufacturing certain heavy duty vehicles known as 'Hippo' and 'Beaver' on payment of duty at 12.5 per cent *ad valorem* plus special execise duty as applicable then. The prices got approved by the factory were for vehicles fitted with standard tyres. But the factory was also allowing option to the buyers to have these vehicles fitted

with tyres of other specifications as available, and in such cases the factory was charging higher prices by issue of supplementary invoices. In many cases these invoices had been issued on the same date but with a consecutive serial number. The variation in prices had ranged from Rs. 314 to Rs. 6407 for each vehicle.

2.23. The Committee desired to know when this factory was audited by Internal Audit Party and inspected by the Departmental Inspection Groups, whether this under-assessment was noticed by any of these parties and if not how it escaped their notice. In a note, the Ministry stated that "Internal Audit Party had not visited the unit during this period. Inspection group had visited the factory twice. First inspection was done from 21-7-70 to 25-7-70 covering the period from 1-11-69 to 20-7-70. Second inspection was done from 8-12-70 to 11-12-70 covering the period from 20-7-70 to 30-11-70. The inspection group did not notice the irregularity. It has been reported that the supplementary invoices were not made available at the time of Inspection and no reference or endorsement had been made in the original invoice, regarding the issue of any supplementary invoice. However a probe by the Inspection Group in the sales section of the factory, where all the invoices (original & supplementary) are available could possibly reveal the irregularity committed by the party. Disciplinary action against the concerned officers is in progress."

2.24. The Committee pointed out that if the tyres of different specifications had been used then they should have been on stock. The Committee asked whether Inspection Group or Internal Audit Party had verified the raw material account and if so whether they had verified the accounts of these tyres and enquired about their use. The Ministry stated that, "the raw materials specified for Motor Vehicles are engine blocks and the Inspection Group have verified the raw materials account with reference to daily manufacturing report and daily engine output statements. Neither the Inspection Group nor the Internal Audit Party checked the stocks of tyres of different specifications held by Messrs. Ashok Leyland Ltd., Madras. No enquiries about the use of them were also made."

2.25. This under-assessment was pointed out in Audit on 23-2-71. The Committee asked why the Department took nearly 10 months to issue demands in this case and what is the normal time limit for issue of demands for under charges. The Ministry stated that, "after receipt of Audit objection on 4-3-71 in the Divisional Office, show cause notice was issued by the Range Officer on 12-3-71 to the party. After exchange of some correspondence between the party

and the Range Officer, the issue was decided by the latter by issuing an appealable order demanding the amount of Rs. 22,996.20 on 2-12-71. Rule 173-J stipulates a time limit of one year for recovery of short levy or refund of excess levy under the provisions of Rules 10 and 11 of C.E. Rules 1944."

2.26. The Committee asked whether Government had ascertained if there was failure on the part of any officer at any level in this case. The Ministry replied: "The explanations offered by the departmental officers, who failed to detect the irregularity, are under examination."

2.27. The Committee enquired what were the declarations required to be given on the gate pass under the S.R.P. as compared to similar declarations on gate pass and A.R.I. earlier, and whether these declarations were considered adequate to bring out such cases to the knowledge of assessing officers immediately. The Ministry have clarified: "This is a case where prices of goods already removed under gate passes were enhanced through issue of supplementary invoices issued subsequently. It was, however, the assessee's responsibility under law to file revised price."

2.28. Relevant provision in Rule provides that if in the list approved by he proper officer under Sub-rule (2) an alteration becomes necessary for any reason, the assessee shall likewise file a fresh list or an amendment of the list already filed for the approval of such officer. The Committee, however, understand that the Ministry have informed Audit that the factory had not intimated the increase in prices to the department as required under the rules and therefore the question of levy of penalty was under consideration.

2.29. The Committee regret to observe that this is yet another clear case of evasion of Excise duty by the same Company, viz. Ashok Leyland Ltd. The Company failed to inform the Excise Department about the extra price charged by them for the motor vehicles fitted with special type of tyres, i.e. the difference between the approved assessable value of vehicles fitted with standard type of tyres and the price actually charged after fitting special tyres desired by the customers. The difference in prices ranged from Rs. 314 to Rs. 6,407 for each vehicle. This resulted in under-assessment of duty to the extent of Rs. 22,996 for the period from 1st October, 1969 to 16th December, 1970. The factory did not also produce to the Inspection Group the supplementary invoices issued by them for the extra price charged to customers. The Committee

understand that the question of levy of penalty on the factory was at one time under examination. The Committee require that action should be taken without further delay and an intimation sent to the Committee immediately. They would also like to know the particulars of under-assessment for the periods prior to October 1969 and subsequent to December 1970 as well as the action taken for the recovery thereof and the levy of penalty. The Committee also desire that responsibility for the lapse should be fixed under advice to the Committee.

2.30. It is distressing that although the Inspection Group of Department visited the factory twice during the material period (July 1970 and December 1970) they failed to notice the irregularity by checking the invoices in the Sales Section. Disciplinary action against the concerned officers is stated to be in progress. The Committee would like immediate information about the action taken against the officers concerned.

2.31. The Committee have been informed that the raw materials specified for motor vehicles are engine blocks and the Inspection Group verified the raw materials account with reference to daily manufacturing report and daily engine output statements. But neither the Inspection Group nor the Internal Audit Party checked the stocks of tyres of different specifications held by the factory. The Committee do not at all appreciate such a routine approach. In view of the fact that tyres form an important component of motor vehicles it is surprising why it was not considered necessary (if it was not done wilfully) by the Inspection Group/Internal Audit Party to check the stocks of tyres. The Committee desire that suitable directions should be issued by the Board for checking of other raw materials besides principal raw materials for future guidance of all concerned, so that under-valuation of assessable value can be located and action taken to fix the correct assessable value and penalise delinquent assessees.

2.32. The Committee understand that at present in the gate passes which are used under the S.R.P., there is no provision to show both the real value and invoice value. The Committee suggest that Board may examine whether the form of gate pass needs any modification so that under-assessment of the type indulged in the present case could be more easily detected by the assessing officer and suitable action taken against the party at fault, without delay.

Underassessment due to incorrect assessable value adopted

Audit Paragraph

3.1. Under section 4 of the Central Excises and Salt Act, 1944, if the ex-factory whosesale price of a commodity is inclusive of duty, the duty payable is required to be abated to arrive at the assessable value.

3.2. Aluminium is assessable to excise duty at 30 per cent *ad valorem*. By an order issued on 24th May, 1971 Government of India fixed ex-factory sales prices of aluminium inclusive of excise duty. In May, 1971 Government by issue of a notification exempted aluminium from that amount of duty calculated on a value of Rs. 1,257 per metric tonne subject to fulfilment of certain conditions.

3.3. In the case of a factory manufacturing aluminium ingots, rods and sheets, the concession in duty was being given effect to by deducting the amount of Rs. 1,257 per tonne from the total assessable value. This method of calculation was incorrect as the quantum of duty to be abated under Section 4 was the duty actually payable. In view of the exemption, duty payable was less and consequently abatement should be lower and the assessable value higher. As the amount of Rs. 1,257 was inclusive of duty, the value portion of the deductible amount would be only Rs. 966.92* as against Rs. 1,257 actually deducted. This was clarified also by the Central Board of Excise and Customs in a circular dated 5th July, 1971. But not following the correct procedure there was an under-assessment of duty to the extent of Rs. 1,36,220 during the period 26th May, 1971 to 31st August, 1971.

[Paragraph 29(a) of the Report of the Comptroller and Auditor General of India for the year 1972-73, Union Government (Civil) Revenue Receipt—Volume I—Indirect Taxes]

3.4. The Committee were informed by Audit that the underassessment pointed out in the Audit Paragraph related to Aluminium Corporation of India Ltd., Calcutta. The Committee desired to know how the Board took about a month and a half to clarify the point involved. The Ministry stated:

> "The notification No. 53-A/71 dated 24-5-71 was issued through Gazette Extraordinary which was forwarded by the Ministry on the same date to field formations with a forwarding letter dated 24-5-71. There was hardly any

---

*Rs. $1,257 \times \frac{100}{130} = 996.92$.

time to issue detailed instructions on the date the notification was issued since it was necessary to synchronize it with the issue of the Aluminium price Control Order and allied notifications to be issued by the Department of Mines and Metals. Therefore, when the matters were processed further and explanatory memorandum was also prepared to place the notification on the Table of both the Houses of Parliament, opportunity was taken to draft the instructions and issue the same on 5-7-71 within one and a half months of the date of issue of the notification. It was originally felt that since the exemption notification applied to 2 manufacturers in 2 Collectorates, no general instructions were called for. In view of the foregoing, there is hardly any delay."

3.5. The Committee desired to know the date when the clarification issued by the Board on 5-7-71 was received by the Collector concerned and the action he took on it and also whether this clarification was circulated to lower formations and if so when. The Ministry stated in a note:

"The clarification dated 5-7-71 was received by the Collector on 14-7-71. On 14-7-71, Deputy Collector wrote a D.O. letter to Assistant Collector, Burdwan to confirm that assessments have been made in accordance with Board's letter dated 5-7-71. If not, demand for short levy were to be raised. Superintendent (T) endorsed on 21-7-71 a copy of Deputy Collector's D.O. letter dated 14-7-71 to Superintendent Central Excise, Asansol, Jaykanagare for information and submission of immediate report. Deputy Collector's D.O. letter was received in Divisional Office on 20-7-71."

3.6. The Committee desired to know why there was delay in payment of under-assessed amount of Rs. 1,36,220 by the party concerned. The Ministry replied:

"The delay was due to certain clarification sought by the Assistant Collector from the Collector and the party insisting on issue of either a trade notice or a clarification from the authorities who issued the notification dated 24-5-71. Ultimately short levy of Rs. 1,36,220 upto 31st August, 1971 was paid by the party through six cheques on 27-11-71, 8-12-71 and 15th December, 1971."

To a query as to when the assessment documents for July, 1971 were checked by the range officers and whether the range officers had noticed the underassessment, the Ministry stated:

> "The R.T. 12 returns for the relevant period *i.e.* from May, 1971 to August, 1971 were checked and finalised on 28-4-72, 30-5-72, 28-6-72 and 29th July, 1972. The under-assessment was noticed by the local officers."

3.7. The Committee desired to know whether the Department had made sure that there had been no other similar case of under-assessment in the same Collectorate or in other Collectorates. The Ministry replied:

> "No similar case of under-assessment owing to working calculation of assessable value has come to notice in respect of Aluminium except in the Central Excise Collectorate of Madras. The facts of the case are briefly as under:—
>
> M/s. Madras Aluminium Co. Ltd., Mettur Dam manufacturing aluminium are eligible for exemption under Notification No. 53-A/71 dated 24-5-71. They filed the price list on 5-6-71 taking into account the concession allowed by the said notification. The Superintendent fixed the value in such a way that the manufacturer got only the benefit, as clarified in Board's letter dated 5-7-71. The company objected to this and gave a representation to the Superintendent on 2-9-71. In their representation they stated that nothing should be added to the ex-duty value and that the amount of Rs. 1,257 must be deducted straightway from ex-duty value to arrive at the assessable value. The Superintendent of Central Excise, Metturdam passed an order on 2-2-72 confirming the price approved by him. On this the company went in appeal to the Appellate Collector of Central Excise, Madras who in his order dated 22-9-72 allowed the appeal in favour of the licensee without taking into consideration the guidelines contained in Board's letter dated 5-7-71. However, on a reference from the Collector concerned the Appellate Collector's decision is being reviewed by the Reviewing Authority for review under section 36(2) of the Central Excises and Salt Act, 1944."

3.8. At the instance of the Committee, the Ministry furnished following particulars about the total number of Aluminium manu-

facturers in the country, year of their establishment, their capacity and production during 1971-72 and the cost of production:

S. No.	Name of the manufacturers	Year in which established	Capacity 1971-72 (in tonnes)	Production 1971-72 (in tonnes)	Booked cost of per tonne of aluminium metal for 1972-73 as worked out by the Bureau of industrial cost of prices
1	2	3	4	5	6
1	M/s. The Aluminium Corporation of India (Alucoin) 7 Council House Street, Calcutta-1.	1938	9000	7563	5730
2	M/s. The Indian Aluminium Co. Ltd., (Indalco) 1-Middleton Street, Calcutta-16 . . .	1938	76,170	82,075	2965
3	M/s. Hindustan Aluminium Corpn., Ltd. (Hindalco) Century Bhavan, Dr. Annie Besant Road, Bombay-25-DD .	1958	80,000	78,784	3638
4	M/s. Madras Aluminium Co. Ltd., (Malco) Jayalakshmi Race Course, Coimbatore-1 .	1960	14,000	13,063	3893

3.9. During the course of evidence the Committee asked whether the notification of May, 1971 granting concession in excise duty was applicable to all the four producers of aluminium. The witness replied: "No, Sir. This notification was limited in its scope and actually applied only to two manufacturers". When asked what was justification for giving the concession to only two manufacturers, the witness replied: "They were relatively smaller units.... This excise duty concession to these two smaller manufacturers was one of the measures recommended by a Working Group which went into the entire price structure of the aluminium industry." The representative of the Ministry of Steel and Mines explained further: "Early in 1970, a Working Group was appointed by the Department of Mines to go into the question of the cost of production of 4 aluminium producers. By the end of 1970, the recommendations of the Working Group were available with the Government. One

of the recommendations was, the two small aluminium producers, namely, Aluminium Corporation of India and the Madras Aluminium Company should be given an excise duty rebate equal to Rs. 290 or 7½ per cent of the cost of commercial ingot per tonne. Now, it was as a result of this recommendation, which was accepted by Government, that the Aluminium Corporation and the Madras Aluminium Company, were given an excise duty rebate. At that time we considered the grant of 7½ per cent excise duty rebate. There was a representation from the Aluminium Corporation, which is the smallest of the 4 companies, that they should be given a higher excise duty rebate and also a price differential, as compared to the larger companies..... We referred it back to the Working Group who conducted a cost study of the Aluminium Corporation through the Chief Cost Accounts Officer and on the basis of the same, recommended that since compared to the cost of production of the other aluminium producers, the cost of production of Aluminium Corporation was higher, a higher rate of excise duty rebate for Aluminium Corporation of India, namely, at 12½ per cent was justified."

3.10. Under the notification of May, 1971, the two companies, namely, Aluminium Corporation of India and Madras Aluminium Company were granted certain concessions in excise duty and under the subsequent notification issued in October, 1971, the Aluminium Corporation of India had been granted higher concessions. The Committee enquired whether it was a fact that the Aluminium Corporation was the oldest of the Aluminium Companies. The representative of the Ministry of Steel and Mines replied in the affirmative. To a question whether this company was making profit or losing, the representative replied: "At the moment, it is losing." In reply to another question, whether this company had declared dividend this year the representative replied in the negative. The Committee then asked whether this company would be able to declare dividends with the excise duty rebate granted to it. The representative replied again in the negative. The Committee asked why, instead of giving rebate in excise duty in this fashion, the Government were not examining the possibility of expansion of the two units, Aluminium Corporation of India and Madras Aluminium Company, to enable them to become economically viable. The representative replied: "It has been considered. The Madras Aluminium Company has been expanded and given a licence. Similarly, the Aluminium Corporation has also been given a licence for installing additional capacity in Orissa." To a question as to when this was done, the representative replied: "Two years back". When asked what progress had been made by these Companies, the representative said:

"The Aluminium Corporation has not been able to make much progress. Originally, they had estimated a capital cost for the Orissa smelter, now they find it would be much more. They have represented to the Government that the selling price of the aluminium which is now controlled under the orders of 1971, is not remunerative enough for them to go in for expansion. As a result of representations, not only of Aluminium Corporation but also of others regarding increased costs, the entire matter of cost of production of aluminium has been referred to the Bureau of Industrial Costs and Prices."

3.11. The Committee desired to know whether it was necessary to issue notifications giving exemptions in excise duty in such cases to make them appear of general applicability instead of making them specific, applicable to a particular Company or companies. The witness replied: "The policy was correct, but it was perhaps not legally possible to express it another way." He added further: "It is purely a question of how it should be drafted; and we were guided by the Ministry of Law in this." The Committee asked whether the use of Section 8(i) or 8(ii) of the C. E. & S. Act, 1944 was proper for grant of such concessions and whether it would not be better and more satisfactory to grant a subsidy. The Chairman of the Board of Central Excise & Customs said: "Sir, I will convey the suggestion made by you. It is absolutely a correct thing. We could welcome that. But, Sir, whenever a request for exemption comes to us it is in so many cases that we go back to the administrative Ministry and tell them why don't they give subsidy."

3.12. The Committee note that in this case relating to Aluminium Corporation of India Ltd., Calcutta there was delay of 1½ months in issuing clarificatory instructions by the Board after the issue of the exemption notification of May 1971, exempting aluminium from the amount of duty calculated on the value of Rs. 1,257 per metric tonne subject to certain conditions. The Committee desire that in complicated matters such instructions should be issued by the Board along with the notification or soon thereafter. In the present case the short levy (Rs. 1,36,220) could have been avoided if the instructions were issued in the month of May, 1971 itself. It is regrettable that there was also considerable delay on the part of the Range officer in checking the R.T. returns of the assessee (Aluminium Corporation of India Ltd.) for the period May 1971 to August 1971. The Committee desire that officials responsible should be warned.

3.13. The Committee note that in another case of similar under-assessment in regard to Madras Aluminium Co. Ltd., in the Madras

Collectorate the decision of the Appellate Collector is under review by the Reviewing Authority. The Committee would like to be informed of the result of the review as soon as it is completed.

3.14. The Committee find that the concession given by the Board in May 1971 applied to two smaller manufacturers of Aluminium goods, viz. Aluminium Corporation of India Ltd. and Madras Aluminium Co. Ltd. out of four in the country and that given in October 1971 applied to only one manufacturer, Aluminium Corporation of India Ltd. This appears rather haphazard. The Committee do not favour grant of exemption under Rule 8(1) of the Central Excise Rules 1944 virtually in favour of individual units. The Committee would like Government to examine the matter in all its ramifications and inform them of the policy to be followed firmly in future. In any event, any concession which partakes of the nature of a subsidy should not be given in the camouflaged fashion of taxation exemption.

Audit Paragraph

3.15. Office machines, falling under tariff item 33-D are assessable to duty on an *ad valorem* basis. For this purpose the value has to be exclusive of local taxes, such as, sales tax, octroi, etc. In one Central Excise Collectorate, a manufaturer of office machines was clearing the machines for sale to a sole-selling agent after paying excise duty and sales tax, the articles being chargeable to single point sales tax under the State Sales Tax Act. While approving the assessable value, based on the prices of the sole-selling agents, the department, however, allowed a higher sum by way of abatement from the wholesale, towards sales tax, than the amount actually charged by the manufacturer as sales tax. As there was no further incidence of sales tax at the point of sale by the sole-selling agent, the higher abatement of sales tax resulted in the approval of a lesser assessable value and consequent under-assessment of duty to the extent of Rs. 51,622 during the period 1st March, 1970 to 6th January, 1972.

[Para 29(b) of C&AG's Report for 1971-72—Union Government (Civil)—Revenue Receipts—Volume I—Indirect Taxes]

3.16. Adding machines and calculators used as office machines were brought under the excise net, with levy of ten per cent *ad valorem* from 1st March, 1970. In this particular case, the Committee understood from Audit that the manufacturer, Facit Asia Ltd., Madras, was selling the goods through their sole distributors and the price charged included excise duty and sales tax. The sale

price to sole distributors is not acceptable under Sec. 4, but the price at the point of sale by sole distributor to dealers is to be adopted. Under the Madras Sales Tax Act, sales tax is leviable at 15 per cent at the first point of sale, *i.e.*, when the goods are sold by the manufacturer to sole distributors and no sales tax is chargeable at subsequent points. The value for levy worked out back-wards from the sole distributors price by the department allowed rebated for sales tax at 15 per cent on this price while in fact, it should have been on the price of the Manufacturers.

3.17. A model working of the method followed by the Excise department and the correct one are indicated below:

As it was		As it should have been
Rs.		Rs.
1790·00	Price	1790·0
*233·50	Sales Tax	184·73
1556·50	Value including duty	1605·27
1415·00	Value excluding duty	1459·34
*1740·15	(100 X 1603·27)	
115	110	

3.18. When the matter was pointed out by Audit on 22-7-1971 the department issued two show cause notices on 12-1-1972 and 27-3-1972 and decided the case at superintendent level on 9-5-1972. A demand was issued on 14-6-1972 and the amount was realised on 17-8-1972.

3.19. The Committee asked as to what action was taken from the time when the defective price approval came to the notice of the Department till 17-8-1972 when the under-assessed amount was realised. The Ministry stated:

> "Price list was approved provisionally to be finalised after verification of marketing agencies, invoices etc. Since the prices were not finally approved, it may not be proper to call the approval as defective. The Audit pointed out on 22-7-71 that the sales tax should not be deducted to arrive at the assessable value, as the sole-selling agent was not charging sales tax from its dealer. After the provisional approval of the price-lists, the Range Superintendent was asking the party to furnish sub-vouchers etc. of the sole distributors to enable him to finalise the provisional assessments. The licensee produced the said

information in December, 1971. In January, 1972, the Superintendent issued a show cause notice for Rs. 46154.57 covering the clearances from 1-3-70 to 31st August, 1971. A second show cause notice for Rs. 5467.52 covering the period 1-9-71 to 6-1-72 was issued in March, 1972. After considering the reply of the party, Superintendent confirmed a demand of Rs. 51,622.09 on 9-5-72 by issuing an appealable order. After receipt of a reminder from the Range Officer, the licensee paid the amount on 17th August, 1972."

3.20. When asked why it had taken the Department two years to finalise the prices, the Ministry stated:

"The provisional assessments could not be finalised due to the fact that the party took about one year and three months in producing the invoices and other particulars to the Central Excise Officer concerned for finalisation of provisional assessments and these dilatory tactics by the licensee were to some extent responsible for delay in finalisation of assessable value. There was also some delay on the part of the departmental officers which is being looked into."

3.21. The Committee enquired whether any time limit had been fixed for finalisation of provisional assessment. The Ministry replied:

"Statutorily, no time-limit has been fixed. But recent instruction issued by the Board under F. N. 202/11/73-CX.6 dated 29-8-73 (copy reproduced below) emphasise that the assessee should be asked to supply the necessary information within a month and he should be told that if he fails to supply the information during the period of one month, benefit of lower assessment is likely to be denied to him."

Guide-lines issued

"The Public Accounts Committee in their 44th Report stressed that a time limit should be provided in the Rules for finalisation for all provisional assessment with built in safeguard against dilatory tactics of assessees like delay in production of invoices and other required information. While it was felt that it was not possible to lay down a statutory time limit for the finalisation of the provisional

assessments, the Board in their letter F. No. 202|17|22-CX.6 dated 10-1-73 directed that where provisional assessments in any particular cases are not finalised within six months, the case should be reported to the Collector for his personal attention so that the Collector can issue necessary directions to ensure speedy finalisation of the case.

2. It is likely that in some cases assessees may, in order to prolong the benefits of lower provisional assessments, delay submission of documents relevant for finalisation of prices. Board desire that in such cases officers must inform assessees to submit such documents within a reasonable time, say one month or so, failing which they should be warned that benefit of lower provisional assessment would be denied."

3.22. The Committee are surprised at the helplessness pleaded by the Government in the wake of dilatory tactics adopted by the licensees in producing information required for assessment of excise duty. It took the Excise Department more than two years to recover an amount of Rs. 51,622 after Audit pointed out the under-assessment on adding machines and calculators produced in a factory of Facit Asia Ltd., Madras. The Committee have been informed that the assessment in the case was initially made provisional, but the same could not be finalised early because the licensee took about one year and three months in producing the invoices and other particulars for finalisation of prices and these dilatory tactics were to a great extent responsible for the delay.

3.23. The Committee note that in pursuance of their earlier recommendation made in their 44th Report (Fifth Lok Sabha) in regard to fixing of some time limit for finalisation of provisional assessments, the Government have issued instructions in August, 1973 that in case the licensee failed to submit necessary documents relevant to the finalisation of prices within a reasonable period, say a month or so, the benefit of lower provisional assessment could be denied to him. The Committee hope that with the issue of these instructions, such delays and lapses would be avoided in future. The Committee would like to watch the progress of finalisation of provisional assessments through future Audit Reports.

3.24. The Committee also note that in this case, the departmental officers were also responsible for delay in the finalisation of provisional assessment, which is being looked into. The Committee hope that adequate steps would be taken to fix responsibility.

Non-realisation of duty due to revision of prices with retrospective effect

4.1. Due to increase in the prices of raw materials, lead and antimony, a unit manufacturing storage batteries revised their prices also retrospectively and realised differential value from their customers on supplementary invoices. Corresponding central excise duty on such differential prices was not adjusted in the personal ledgers account of the licensee. When this was pointed out in audit, the department raised demands for differential duty to the extent of Rs. 57,784 for the period from 13th June, 1970 to 13th August, 1971. This amount was realised by adjustment in the personal ledger account of the licensee in February, 1972.

4.2. The Ministry after admitting the facts have stated that "a system of issuing demands for differential duty had already been adopted by the local Range staff and demands were issued periodically, though not promptly."

[Paragraph 30 of C&AG's Report for 1971-72—Union Government (Civil)—Revenue Receipts—Volume I—Indirect Taxes]

4.3. The Committee learnt from Audit that the Customs Department were aware of the revision of prices of storage batteries through supplementary invoices and the revised lists of price issued by the manufacturer, Amco Batteries Ltd., Bangalore, but they did not promptly issue the demands for additional duties due. The delay in these cases ranged between 6 to 18 months. That the demands were not issued was first pointed out by the departmental Inspection Group in January, 1971 when after a lapse of four months two demands were issued in May, 1971. Thereafter audit pointed out the same omission in July, 1971 when finally demands were raised for the entire period in February, 1972.

4.4. The Committee desired to know when the supplementary invoices were issued by the Company to its customer and what was the time gap between the date of supplementary invoice and filing of revised price list. The Ministry of Finance stated that, "supplementary invoices were generally issued after filnig of revised price list, except in five cases. In two cases, the revised price lists were filed after one day of issuing the supplementary invoices. In three cases, these were filed after about 2-1/2 months. This is stated to be due to the reason that the Management was not sure whether the revised prices would be accepted by the customers."

4.5. In reply to a question whether the question of issue of demands was considered at the time of approving the revised price list, the Ministry stated that, "as per the practice, the differential demands ought to have also been raised. Apparently, in this particular case, the officers failed and for this responsibility is being fixed." In another note the Ministry of Finance stated that: "The Department came to notice the supplementary invoices as and when the factory submitted revised price lists. Apparently, in these particular cases, local staff failed to raise demands promptly for differential duty. Range Officer is expected to verify the revised prices and follow up with differential duty demands. Now a register has been prescribed by the Collector so that such cases are not lost sight of."

4.6. Explaining the visit of the Inspection Group to the factory of the manufacturer, the Ministry stated:

> "The Inspection Group is functioning under the supervision of the Supdt. In-charge. They visited the factory between 15-1-71 and 23-1-71 and inspected the records and *inter-alia* pointed out the irregularity. On receipt of the inspection note of the Inspection Group the Range Officer raised part demands. Supdt. Inspection Group was expected to ensure compliance through calling compliance reports from the Range Officer. Assistant Collector's remark was communicated to Range Officer for action on top priority on 11-3-71."

4.7. Explaining the extent to which the delay in realisation of differential duty in the case could be attributable to the factory or the Excise Department, the Ministry of Finance stated that, "The delay is mainly attributable to departmental officers. The Collector is already looking into the matter of fixing responsibility and his final report is awaited."

4.8. The Committee desired to know the other cases, if any, in which the Board had come across issue of supplementary invoices. The Ministry of Finance stated that the "system of supplementary invoices due to price variation clause has been reported in two other commodities namely, Metal Containers and Electric Wires & Cables. Collectors have been asked to make all such assessments involving contract prices with price variation clause under Rule 9-B, as provisional assessments vide F. No. 6|29|73-CX-I dated 10-9-73."

4.9. Replying to another question, the Ministry of Finance stated that "the practice of inclusion of price escalation clause is followed generally by major suppliers of commodities to bulk purchasers like

the D.G.S. & D., the Zonal Railways, State Transport Undertakings, etc."

4.10. The Committee view with concern the failure and delay in raising demands for differential duty on storage batteries cleared by a manufacturer (Amco Batteries Ltd., Bangalore) who was revising the price retrospectively by issuing supplementary invoices to the customer under a price escalation clause of the contract providing for revision of price due to increase in the price of raw material used in its manufacture. Although Amco Batteries Ltd. was submitting the revised price lists to the Excise Department, the latter failed to raise additional demands. It was only when the departmental Inspection Group pointed out the omission in January, that the department issued two demands in May, 1971 and when Audit pointed out the same omission in July, 1971, the Department raised the entire differential demands amounting to Rs. 57,784, covering the period upto the 13th August, 1971, in February, 1972. The time taken in issuing demands ranged between 6 to 18 months after the approval of revised price lists in spite of the fact that the remarks of the Assistant Collector for action on top priority basis on the inspection note of the Inspection Group were communicated to the Range Officer. The Committee note that the Collector is already looking into the question of fixing responsibility for these lapses. The Committee would like to know the outcome of the investigations by the Collector and the action taken thereon.

4.11. The Committee have been informed that price escalation clause is provided by the manufacturers to safeguard against price increase in raw materials especially in rate contracts with D.G.S. & D., Railways, State Transport Undertakings etc. The system of supplementary invoices due to price variation clause have been reported in the case of metal containers and electric wires and cables. The Committee note that instructions have been issued in September, 1973 to assess such clearances under price escalation contracts, provisionally. They hope that this procedure is being followed in respect of all commodities and all manufacturers following price escalation contracts.

Incorrect adoption of tariff values instead of real values

Audit Paragraph

5.1. Tariff values of Refrigeration and air-conditioning appliances falling under item 29—A of Central Excise Tariff, were revised by notification dated 11th December, 1970. Water coolers of capacity exceeding 200 litres per hour were excluded from the purview of the

above notification. Consequently such water coolers were required to be assessed on the basis of values fixed under Section 4 of the Central Excise and Salt Act, 1944.

5.2. In a factory manufacturing water coolers of the storage type of a capacity exceeding 200 litres per hour were assessed to duty by applying, tariff values instead of values determinable under Section 4 of the Central Excise Act.

5.3. It was pointed out in audit that, as the sale prices of coolers were higher than the tariff value and as the Government of India notification fixing tariff values had no application to such coolers, these should have been assessed on their wholesale value under Section 4. The department thereupon issued a show-cause notice to the factory demanding duty of Rs. 65,158.

5.4. The Ministry have replied that the amount was recovered in November, 1972 and the circumstances in which the price lists were approved without proper verification of relevant invoices are being ascertained.

[Paragraph 31 of the Report of the Comptroller and Auditor General of India for 1971-72—Union Government (Civil) Revenue Receipts—Volume I—Indirect Taxes relating to Union Excise Duties.]

5.5. In this case, the article assessed is storage type water cooler. Government fixed tariff value for this type at Rs. 1500 for a 35 litre capacity cooler and for higher capacities, an addition of Rs. 15 per litre or part of a litre of additional capacity should be made to the tariff value. The tariff values would not apply to water coolers exceeding a capacity of 200 litres per hour. This was the position after the issue of notification dated 11-12-1970; prior to this date, however, tariff values were applicable.

5.6. The Committee were informed by Audit that the mistake pointed out in the Audit Paragraph related to Blue Star Industries Ltd., Majiwada, Thana. The factory, manufacturing water coolers of different capacities, some exceeding 200 litres capacity, declared the prices of such coolers of capacity of exceeding 200 litres on the same basis as tariff values. For example a cooler of capacity 368 litres was declared as of value Rs. 6495. This is made up as Rs. 1500 for 35 litres.

	to balance 368--35
4995	at Rs. 15X333
6495	4995

The Central Excise department accepted this value for assessment, while value as per sales invoice was Rs. 11,266. This resulted in under-assessment which had been recovered after audit pointed it out

5.7. Under Rule 173C, every assessee, who produces, manufactures, or warehouses goods which are chargeable with duty at a rate dependent on the value of the goods, is required to file with the proper officer for his approval a price list, in such form and in such manner and at such intervals as the Collector may require, showing the price of each of such goods and the trade discount, if any allowed in respect thereof to the buyers.

5.8. An assessee is required to file a price list in quadruplicate with the Supdt. of Central Excise or the Assistant Collector of Central Excise. Under sub-rule (2A) of the rule 173C, prior approval of price lists is a necessary condition before goods subject to *ad valorem* duty can be removed from the factory. In cases where delay is anticipated in conducting verification etc. of the price, the assessee can be allowed to avail of the procedure of provisional assessment as set out in Rule 9-B *ibid*. Provisions under sub-rule (2B) of the said rule 173C also exist for the assessee being allowed either to pay the duty under protest or get the goods assessed provisionally in cases where the price approved by the proper officer is contested by the assessee.

The Supdt. is required to proceed to verify prices and discounts with reference to the factories and sole selling agents 'or distributors' invoices, sale journals, ledgers and other relevant records and also with the whole-sale prices prevailing in the wholesale market at the place of manufacture or if such wholesale market does not exist there, at the nearest wholesale market for such goods.

When once the price is verified and approved, no further verification is ordinarily necessary unless the price is altered or there is reason to suspect that there has actually been a change in the price. As a precautionary measure while making verification of prices the assessed value is to be checked with the relevant entries in about 10 per cent of the invoices, bills or other records of transaction. If discrepancies are noticed, the scrutiny is to be made more extensive.

5.9. The Committee desired to know what is the normal time required for verification of prices. The Ministry stated: "No time has been specifically prescribed statutorily. It is expected that verification of invoices is taken up soon by the Range Officer. However with a view to detecting under valuation, if any the verification of invoices is invariably undertaken within a period of one year from the effective date of the price list and demands for differential duty are raised wherever necessary because one year is the time prescribed under Rule 10 read with Rule 173J for issuing show-cause notices for short levy."

5.10. The Committee asked what were the circumstances leading to acceptance of prices in this case. The Ministry replied: "The price lists were filed on 13-5-71 & 31-7-71. Since the prices can be verified with reference to the actual commercial invoices, the practice has been to approve the prices and subsequently verify within a short period. Accordingly Supdt. approved the prices on 12-8-71 and 8-11-71 and he was to do the verification subsequently. That could not be undertaken by him because of the heavy budget work of 1971, when the physical control on new commodities continued up to September."

5.11. The Committee enquired whether the officer approving the price did not suspect that values declared might be identical with tariff values prevalent earlier. The Ministry stated: "In view of the practice prevalent in the Collectorate, referred to above and there being no reference of this notification fixing tariff values in the declared price list, the officer perhaps did not suspect that the prices declared were identical with the tariff values prevalent earlier."

5.12. The Committee asked whether this factory was inspected by the Departmental auditors or inspection wings during the period from May, 1971 when the factory submitted price lists upto November, 1971 when Audit pointed out the under-assessment. The Ministry replied: "Yes, by the Inspection Group from 27th to 30th October, 1971 *i.e.* subsequent to the visit of Audit Party who had carried out verification. Since the invoices were kept at the Head Office and not at the factory, scrutiny thereof could not be done at the spot. By the time, the Inspection Group scrutinised the invoices at the Head Office, the Audit had pointed out the discrepancy."

5.13. The Committee asked whether tariff values of water coolers had been reviewed after they had been refixed in December, 1970. The Ministry replied: "The tariff values for refrigerators, water coolers and air-conditioners (fixed in December, 1970) have been reviewed and revised in July, 1973. The tariff values for all these articles have been stepped up substantially. The extent of increase in the tariff values is about 25 per cent to 30 per cent in most cases and 40 per cent to 50 per cent in some cases."

5.14. In reply to a recommendation made in their earlier Report, the Ministry of Finance informed the Committee that it had been decided on 27-12-1967 that tariff values would be revised every year (para 1.74 of 90th Report—Fifth Lok Sabha). The Committee asked how in this case there was no revision for nearly three years and whether this delay in revision had not resulted in less realisation of duty. The Ministry replied: "The delay is mainly due to the fact

that in 1971 a policy decision was taken to transfer the work of review of tariff values from the office of the Economic Adviser to the Additional Director, S & I Branch. Though this work was taken over in July 1971 the S & I Branch could not settle down to this entirely new job, for another 6 months. Collection of records from Economic Adviser, their perusal and chalking out detailed programme for each commodity involved another period of about 6 months. In this particular case the work was undertaken in August, 1972. He submitted his report in 2 months but the final orders could be obtained only on 21-5-73 as the matter had to be discussed at various levels. However, steps have since been taken to streamline the existing procedure and it is accordingly proposed to review and revise the Tariff Values for each commodity in future, once a year."

5.15. The Committee note that according to the notification issued on 11th December, 1970 water coolers of capacity exceeding 200 litres per hour were required to be assessed on the basis of their wholesale price and not tariff value. A factory (Blue Star Industries Ltd., Thana), manufacturing water coolers of storage capacity exceeding 200 litres per hour declared the prices of such coolers which were equal to the prices worked out on the basis of tariff values. The price lists filed by the factory on 15-5-71 and 31-7-1971 were approved by the Assessing Officer on 12-8-1971 and 8-11-1971 evidently without any scrutiny. This resulted in under-assessment of duty amounting to Rs. 65,158. According to the Ministry the prices were to be subsequently checked by the officer, but this could not be done because of the heavy Budget work of 1971. It has been also stated that although there is no statutory time-limit for verification of the prices, verification of prices is invariably undertaken within a period of one year from the effective date of price list, because one year is the time limit prescribed under Rule 10 read with Rule 173J for issuing show-cause notices for short levy. The Committee are unable to accept this explanation. According to the departmental procedure if the assessable values are to be approved finally, verification of the invoices should precede the final approval of the prices. If there was some difficulty in verifying the invoices, the assessments should have been made provisionally. In either case the limit of one year does not come in the picture. The Committee, therefore, require that it should be investigated why in this case the assessment was not made provisionally, if the assessing officer really wanted to verify the prices later, and that suitable action be taken against him for the failure.

5.16. Incidentally, the Committee understand that prior to 11-12-1970 tariff values were applicable to water coolers exceeding a capa-

city of 200 litres per hour. In view of wide disparity between the tariff value (Rs. 6495) and the real value (Rs. 11.266) for a cooler of 368 litres capacity, the Committee would like to know how the tariff values were fixed for coolers of larger capacity, prior to 11-12-1970. This is necessary because the low tariff values applicable to the earlier period must have resulted in a substantial loss of revenue. The Ministry should explain this to the Committee.

5.17. Another disturbing factor is the inordinate delay of 2½ years in revising the tariff values of refrigerators, water coolers and air-conditioners fixed in December, 1970. This delay also must have certainly caused loss of revenues prior to July, 1973 as the extent of increase in tariff values given effect to from July, 1973 ranged from 25 to 50 per cent. It is deplorable that the decision of Government in 1967 to review once a year tariff values of all commodities has not been followed. The Committee require that the position in this regard should be examined forthwith and a detailed report given to them regarding the review of tariff values of all commodities which were fixed more than a year ago. The Committee attach particular importance to this suggestion in view of the urgency to guard against loss of excise revenue in the context of present rising trend in prices. This lapse has caused a big loss of revenue. It is, therefore, necessary that the identity is established of the officials who were responsible from the higher echelons so that suitable action could be taken against them.

Underassessment due to incorrect classification

Audit Paragraph

6.1. A factory had declared the composition of woollen yarn manufactured by them as a blending of 50 per cent woollen waste and 50 per cent viscose waste. It was assessed to duty at the rate of 60 paise per kilogram basic duty plus 33 $\frac{1}{3}$ per cent special excise duty under tariff item 18-B. However, the report of the Chemical Examiner on samples drawn on 25th March, 1970, 24th April, 1970, 28th May, 1970 and 6th July, 1970 did not confirm to the composition of the woollen yarn as declared by the manufacturer. The test report indicating the composition revealed that the yarn manufactured was assessable to duty under tariff item 18-Rayon and Synthetic fibres and yarn (instead of 18-B woollen yarn). It was accordingly liable to duty at the rate of Rs. 4.50 per kilogram plus special excise duty at the rate of 33 $\frac{1}{3}$ per cent. Notwithstanding the fact that the entire production from the date on which first sample was drawn should be subjected to the appropriate higher rate of duty till the date when fresh sample was drawn for chemical

analysis, the re-assessment by the department at the appropriate higher rate under tariff item 18 was confined to the production of the particular lots from which samples were drawn.

6.2. When the requirement was pointed out in audit, a demand of differential duty of Rs. 1,48,413 was issued on the quantity of 28,541 Kg. of the yarn cleared between 22nd March, 1970 and 31st August, 1970. The recovery of the demand is, however, pending.

6.3. The Ministry after confirming the facts as substantially correct, have stated that the party had asked for re-test of the samples on receipt of demands for the entire production under reference and the result of the re-test by the Chief Chemist on one sample was reported to be in favour of the party and that further action would be taken on receipt of test report of other samples.

6.4. Audit, has, however, ascertained that the request for re-test was made long after the period of one month prescribed by the Central Board of Excise and Customs and that the Chief Chemist had confirmed the findings of the Chemical Examiner in respect of the other samples. On the basis of the Chief Chemist's report a demand for Rs. 1,02,606 has been confirmed. The amount has not been realised as yet (Feb. 1973).

[Paragraph No. 32(a) of C&AG's Report for 1971-72 Union Government (Civil)—Revenue Receipts—Volume I, Indirect Taxes]

6.5. The Committee learnt from Audit that the under-assessment pointed out in this case pertained to D.M. Woollen Mills Ltd., Indore. The following table shows the dates on which the samples of Rayon and synthetic fibres and yarn were drawn from the factory, sent for analysis, the analysis report received, test results communicated to the factory, the factory requested for re-test and the show cause notices issued:

Sample No.	Dates on which					
	Samples drawn from the factory	Samples sent for analysis	Analysis report received	Test result communicated to the party	The party requested for re-test	Show cause notice issued
1	25-3-70	25-3-70	16-5-70	19-5-70	26-8-70	20-5-70
2	24-4-70	24-4-70	1-7-70	2-7-70	26-8-70	7-11-70
3	28-5-70	1-6-70	7-11-70	19-11-70	27-1-70	31-12-70
4	6-7-70	9-7-70	5-9-70	10-9-70	25-9-70	7-11-70

6.6. The following departmental instructions lay down the procedure for testing/re-testing of samples:

"(iii) The Chemical Examiner, after test, will return the remnant sample alongwith his test report to the Assistant Collector concerned. The remnant sample should be carefully preserved so as to avoid tampering of the seals or destruction of the evidence which connects the sample with the lot or batch from which it was originally drawn, till such time the analytical report furnished by the Chemical Examiner is accepted by the owners (manufacturers) who may be advised to ask for a re-test within one month calculated from the date of receipt of the analytical report by the manufacture, if they propose to question the results of analysis, or for six months whichever is later."

(iv) Whenever the owner (manufacturer) is dissatisfied with the test carried out by the Chemical Examiner, he can apply to the Assistant Collector concerned after payment of the test fees prescribed in the schedule Appendix XLIX of fees for a re-test by the Chief Chemist, C.R.C.L., New Delhi. No request for re-test will be entertained if it is not received by the Assistant Collector within a month from the date on which the test result or the assessment whichever is later, was communicated to the party."

6.7. The Committee enquired whether the procedure prescribed for testing/re-testing of samples had been incorporated in the Rules or made known to parties through notifications or otherwise. The Ministry of Finance replied in the negative and added:

"It is, however, an old procedure and trade interests should be aware of the procedure."

6.8. The Committee desired to know if the party concerned was informed of the remedial measures open to him in case the analysis report differed from his declaration. The Ministry stated that "according to the prescribed procedure party is informed of the remedial measures open to him. In this particular case, party was unfortunately not informed by the Range Officer that in case he was not satisfied with the test result, he should make a request for re-test within one month."

6.9. When asked why the request for re-test from the party was entertained if it was not made within the prescribed time limit of one month, the Ministry stated in a note:

> "Request for re-test in respect of one sample was received within the prescribed period of one month while in respect of other 3 samples, request for re-test were received after expiry of one month. Further, although the time limit of one month has been mentioned in the Departmental Instructions there is at present no provision in Central Excise law laying down that request for re-test should come within a month of receiving the test report. It would have perhaps gone against principles of natural justice if the request of the party had been set aside on the strict compliance of Departmental instructions."

6.10. About the latest position of demands received against the party, the Ministry of Finance have stated that "the demands have not been realised so far, as the party has gone in appeal to the Appellate Collector."

6.11. In this case, a yarn classifyable under tariff item 18, and chargeable to duty @ Rs. 4.50 per kms. plus 33 1/3 per cent special excise duty was charged to lower rate of duty @ 60 paise per kms. plus 33 1/3 per cent special excise duty due to incorrect declaration given by the manufacturer, D.M. Woollen Mills Ltd., Indore. When this came to light as a result of testing of samples by the Chemical Examiner, the Excise department issued show-cause notice for demands of differential duty in respect of the production of particular lot from which samples was drawn instead of the entire quantity manufactured from the date the samples were drawn as provided in the instructions of the Board, thus resulting in under-assessment of duty amounting to Rs. 1.03 lakhs. It is also surprising that the manufacturer who ought to have known that the claim for re-test could be made only within a period of one month was allowed by the Department to make the application after the expiry of one month. The Committee desire that responsibility should be fixed for these lapses.

6.12. The Committee notice that although departmental instructions issued by the Board provide that the requests for re-testing of samples by the Chief Chemist could be entertained only if such requests were made by the manufacturer within one month from the date of receipt of the analytical report of the Chemical Examiner by him, the Excise Department had entertained the requests for re-test made after the prescribed time limit. The Government have justified this action inter alia on the ground that although the

time limit is prescribed in the departmental instructions, there is no such provision in the Central Excise law that the request for re-test should come within a month of receiving the test report. These arguments, it is feared, are fallacious. If testing and re-testing are being done under executive instructions, these instructions issued by the Board are binding upon the officers of the Department and also on the assessees who are, admittedly, working under the SRP system. If, on the other hand, the Government's case is that its own instructions have no binding force, it would lead to the extra-ordinary situation of the very tests by the Government chemist being challenged as illegal. The Committee hope that this is not the intention. In any event, if the Government feels that there should be a statutory provision to safeguard the validity of such tests, the Committee would suggest that Government should arm itself with appropriate legal provisions.

6.13. The Committee have been informed that the demands of differential duty have not been realised so far as the party has gone in appeal to the Appellate Collector. The Committee would like to be informed of the outcome of the appeal.

Audit Paragraph

6.14. According to a Government notification issued in September, 1965, Alkyd resins were exempt from duty, while Maleic and Phenolic resins were assessable to duty at 80 paise per kilogram. All other types of resins were assessable to duty at 30 per cent *ad valorem*, under item 15-A of the tariff.

6.15. A factory in a Collectorate was removing some of resins manufactured by it under exemption, classifying them as Alkyd resins. The departmental Chemist also opined twice in October 1965 and November, 1967 that they were Alkyd resins.

6.16. At the time of audit of the factory in August, 1968 it was seen from the sales literature that at least one of the products was advertised and sold as "Maleic resins." The department was, therefore, requested to re-examine whether these would not be classified as Maleic resins. When the anomaly between the assessment and the advertised literature was brought to the notice of the Chemical Examiner, he expressed doubts about their correct classification. The department, therefore, referred the samples to the Chief Chemist for opinion and on the basis of Chief Chemist's opinion given in February, 1971, some of the products were reclassified as "Maleic resin" assessable at 80 paise per kilogram, while some others were found as not falling under any of the three categories and were classified for assessment at tariff rate of 30 percent *ad valorem*. The

department issued a demand for Rs. 27,72,052 for the period from 23rd September, 1965 to 31st March, 1971. This remains unrealised as according to the Ministry the matter is pending in appeal before the Appellate Collector, and the recovery of the amount has been stayed till the decision on appeal.

[Paragraph 32(b) of the Report of the Comptroller and Auditor General of India for 1971-72—Union Government (Civil) Revenue Receipts—Volume I—Indirect Taxes relating to Union Excise Duties].

6.17. The Committee desired to know the definition of alkyd resins and maleic resins and the distinction between the two resins. The Ministry stated that, "as per trade nomenclature these resins could be described as:

Alkyd resins which are polysters of polyhydroxyl alcohols and polycarboxylic acids in which a small proportion of maleic acid anhydride is added to improve the qualities of the product.

Maleic Resins is a product obtained by reaction of maleic anhydride, resin and glycerol. It is difficult to distinguish between the two types of resins on technological or analytical considerations but the difference is based mainly on trade practice which advertises them as two different types of resins based generally on the end use."

6.18. As stated by the Ministry, the uses of these two resins are as under:

"*Alkyd resins*—Mostly in paint industry.

Maleic Resins—Mainly used in paint industry and reported to be used in manufacture of superior quality paints and varnishes specially in surface coating industries."

6.19. When asked as to what use the resins manufactured in this particular case were put, the Ministry replied: "As per literature of (M/s. Chougule & Co.) Alresat Resins, 224-C, 313-C, 400-C & 201-C are recommended for use mainly in paints and varnishes industry."

6.20. The Committee asked whether Excise authorities were briefed by the Board in 1965 as to how to distinguish between the two resins. The Ministry stated that, "The covering letter issued with Notification 156/65 does not give any instruction on

the scope of Alkyd, and Maleic resins. This is probably because the Government was aware, at the time of issue of the Notification that the trade recognises and distinguishes between Alkyd and Maleic resins for commercial purpose."

6.21. The following is the sequence of events since Audit objected to the under-assessment in this case:

1.	Date of Audit objection	4-9-1968
2.	Reference made to Deputy Chief Chemist	23-8-1969
3.	Opinion given by Deputy Chief Chemist	31-10-1969
4.	Demands issued	14-11-1969
5.	Reference made to Chief Chemist	1-5-1970
6.	Report given by Chief Chemist	22-2-1971
7.	Demand modified	1-9-1971
8.	Demand modified again	18-1-1972

6.22. The Deputy Chief Chemist based his opinion in the first instance on the following grounds:

"(1) The firm had declared the Alresat Resins in question as Alkyds in terms of Notification 156/65.

(2) The samples of the resins were sent to the laboratory with a very brief query without any information on the inputs and background of the case on both the occasions, *viz.*, in Oct. 1965 and in November, 1967.

(3) The samples were analysed in the Customs Laboratory, Bombay, without awareness of the subtle distinction between the scope of the terms 'Alkyds' and 'Maleic' in the Notification."

6.23. When asked as to what was the opinion of the Deputy Chief Chemist when the samples were referred to him again in 1969, after Audit objection, the Ministry replied: "After having known the composition of the products sent to him for test and sales literature of the party, Deputy Chief Chemist opined that all the samples sent to him were maleic resins. But he also expressed his doubts about any definite opinion in view of conflicting technical literature."

6.24. The Committee then asked why the Chief Chemist took more than six months to give his test report and whether there was any time limit laid down for him. The Ministry stated: "As the

opinion expressed by the Deputy Chief Chemist in 1969 differed from his earlier opinions and was indefinite, the Assistant Collector concerned requested the Chief Chemist to give his opinion. The matter was referred to the Chief Chemist on 1-5-70. The Chief Chemist on receipt of request for test, called for some more details about the products from the Assistant Collector concerned and after detailed examination, gave his report on 22-2-71. Although no time limit has been fixed for the Chief Chemist to give his test report, steps have since been taken to improve the efficiency of the laboratories."

6.25. The Committee enquired whether the laboratories were equipped to test all the products to enable the excise authorities to classify the goods. The Ministry replied: "The Laboratories are adequately equipped to carry out most of the tests required to be done. However, when necessity arises to carry out certain special tests with very sophisticated instruments such samples are referred to the other National Laboratories *viz.* National Physical Laboratory, National Test House, National Chemical Laboratory, National Metallurgical Laboratory etc. However, the reports issued by these outside Laboratories are interpreted in the language of the tariff by the Heads of Board Laboratories to the respective assessing authorities."

6.26. The Committee asked what steps Government had taken to improve the working of Laboratories. In a note, the Ministry state: "The following steps have been taken to improve the working of the laboratories:—

(i) Provision of additional staff at Bombay;

(ii) Opening of a Regional Central Excise Laboratory, at Baroda and now at Barauni and Vishakhapatnam;

(iii) Efforts are also being made for a training scheme for Senior Chemical Assistants and Assistant Chemical Examiners at certain National Laboratories and Government Industrial Units as also a scheme for a quarterly meeting of the Chemical Examiners/Deputy Chief Chemists incharge of Regional Laboratories for an exchange of views on technical problems of common interest and understanding of new tariffs and notifications thereon. This will facilitate the technical officers in drawing a uniform code in reporting complex products."

6.27. The Committee are extremely disturbed to note that misclassification of resins relating to one factory (M/s. Chougule & Co.)

alone resulted in short-levy of Rs. 27.72 lakhs. It is indeed very surprising that no instructions on the scope of the two types of resins were issued by the Ministry in 1965 at the time of the issue of the notification. This is a serious lapse. According to the Ministry, this is probably because the Government was aware at that time that the trade recognised and distinguished between alkyd and maleic resins for commercial purposes. The Committee do not accept this but feel that the field formations should not have been left to form their own conclusions or judgements in respect of the variety of resin to which a particular product belongs. This gives rise inevitably to loss of revenue and corruption. It would be of interest to see how far the correct classification was followed in respect of other factories in the Collectorate concerned and in other Collectorates. The Committee would await a report regarding the total short levy of excise duty and the action taken to recover the amount.

6.28. In this connection the Committee would also like Government to examine the justification for prescribing different rates of duty for resins and exempting the alkyd resins from duty.

6.29. It is distressing that the Deputy Chief Chemist came to the conclusion in October, 1965 and November, 1967 that the resins manufactured by M/s Chougule & Co. in this case were alkyd resins. It gives rise to suspicion why the Deputy Chief Chemist gave his opinion without calling for any information on the inputs and the background of the case. The Committee are anxious that departmental Chemists should be careful in analysing the products referred to them for which they have to shoulder full responsibility. It should also be ensured that all the laboratories of the Customs Department have up-to-date equipment and reference books.

6.30. The Committee would like to know the outcome of the appeal which is pending with the appellate collector in this case and the recovery of the amount which has been stayed till the decision on the appeal.

Under-Assessment due to adoption of Incorrect Rate

Audit Paragraph:

7.1. Wrapping and wrapped paper used to be assessed on the gross weight at the rate of duty applicable to wrapped paper, in accordance with executive instructions issued in 1955. The Central Board of Excise & Customs, however, clarified on 27th July, 1970 that in cases where both the container and the contents were liable

to excise duty separately under different tariff items or different sub-items of the same tariff item, they should be assessed separately at the rates appropriate to each. Nevertheless, in certain paper factories in a collectorate, wrapping paper was being assessed at the rates applicable to the paper wrapped, under the earlier instruction of 1955, although the wrapping paper, as such was assessable to duty at a higher rate than the one applicable to wrapped paper. Audit pointed out that the instructions issued in July, 1970 superseded earlier ones issued in September, 1955. On receipt of the objection the Collector of Central Excise referred the matter to the Board for clarification in December, 1970. In November, 1971 the Board clarified that the instructions issued by them in July, 1970 should be deemed to have, superseded all earlier instructions to the contrary including those of 1955. On receipt of these instructions, duty levied since July, 1970 on wrapping paper used by two factories was re-assessed and show cause notices have been issued in April, 1972 for demands of duty totalling Rs. 8,76,257.

[Paragraph 34 of the Report of the Comptroller and Auditor General of India for 1971-72—Union Government (Civil)—Revenue Receipts—Vol. I—Indirect Taxes—relating to Union Excise Duties.]

7.2. The Committee learnt from Audit that the under-assessment of duty totalling Rs. 8.76 lakhs, pointed out in the Audit paragraph, had occurred in the factories of Ballarpur Paper Co. and Orient Paper Mills Ltd. During the course of evidence the Committee pointed out that after the issue of instructions in July, 1970, the Collector concerned waited for about five months and only after the Audit raised the point he sought clarification from the Board in December, 1970 and the Board issued clarifications only in November, 1971, after a lapse of about eleven months. The Committee asked about the reasons for the Collector to seek clarifications and the delay on the part of the Board of Central Excise & Customs. The witness replied that the instructions issued in July, 1970 were "in pursuance of one of the P.A.C. observations. There it arose out of the question of wrapping paper used in reel cores and the assessment thereof. At that time there was doubt in the mind of the Collector whether this supersedes all earlier instructions and whether both should be assessed at the same rate. Accountant General himself had doubt. They wrote to the Nagpur Collector asking for clarification whether these instructions superseded the earlier ones. The Collector wrote to the Board. Other Collectors also raised similar doubts. Thereafter the Board thought that there were really practical difficulties in the point whether all

wrapping paper used to wrap the contents should be assessed at the same rate. They had to consult all the Collectors and Director of Inspection and that is why, it took 12 months to issue clarification." The Committee then asked whether, after the Board issued clarification in November, 1971, the Collector adopted the new instructions. The witness replied: "Not immediately. He had certain practical difficulties because of the weight of the wrapper and wrapped not being known at the time of clearance from the same factory. He consulted other collectors about this."

7.3. When asked why the Collector did not seek clarification on all his doubts at one time when he initially approached the Board for clarifications in December, 1970, the Chairman of the Board replied: "There was delay subsequently on his part and we concede that. We are enquiring into, why he wasted two-three months extra." The Secretary to the Ministry replied: "While issuing the letter (instructions dated 27th July, 1970) the Board should have clarified that all the previous instructions are superseded by this. That is generally the custom. That was not done. Later on, when the Collector referred the point to the Board, the Board should have taken a decision. I do not know what point was necessary for clarification. After the clarification, in any case, the subordinate officers of the Department, had no business again to go on like this. In the first place, if the Collectors had any practical problems, they should have referred to them while answering the Board's enquiry. They should have said that this is the Board's circular letter and this is the present practical problem, and, they would like to know whether the Board's letter is in supersession of the previous letter. We shall try to see why the officers did not take immediate action on this. If the instructions could have been categorical the confusion would have been avoided."

7.4. In a note furnished subsequently, the Ministry stated: "The Collector has explained that on receipt of the Board's letter dated 22-11-71, he advised the lower formations to follow the Board's instructions. However, the trade pointed out various practical difficulties in assessing the wrapper paper separately. Looking to the difficulties of the trade and having found genuine reasons therein, maintenance of *status quo* was ordered by the Collector in his letter dated 22-1-72 provided the manufacturers gave an undertaking to bind themselves to pay separate duty on wrapper later when the matter was decided finally. Other Collectors were also consulted to ascertain the practice prevailing in their Collectorates in connection with Ministry's instruction dated 22-11-71. From reports

received from other Collectors, it was observed by the Collector, Nagpur that factories in other Collectorates were experiencing the same difficulties in implementation of these orders but nonetheless efforts to implement the orders were being made. On getting this information from other Collectors, the *status quo* was ordered to be withdrawn by the Collector of Central Excise, Nagpur on 5-7-72. In view of the representations from trade, Collector was not perhaps unjustified in staying implementation of Ministry's orders dated 22-11-71 for some time particularly when he took the precaution of taking an 'undertaking' mentioned above, from the manufacturers."

7.5. The Committee asked whether an amount of Rs. 8,76,257 under assessed since July, 1970 had been recovered from the 2 assessees. The witness replied: "No yet, because they are contesting. In one case they have gone in appeal and the other for adjudication by the Assistant Collector. They say that they are not liable to pay this differential duty." In a note subsequently, the Ministry stated: "Regarding M/s. Orient Paper Mills, their appeal before the Appellate Collector is pending. As regards M/s. Ballarpur Paper Mills, Ballarpur, their case is still pending before the Assistant Collector. Party has asked for fresh personal hearing and the demands have not yet been confirmed."

7.6. The Committee desired to know in how many Collectorates such under assessments have occurred. What is the total revenue effect in all the Collectorates? The Ministry stated: "Such under assessments were noticed in 14 Collectorates of Central Excise excluding the Collectorates of Central Excise Ahmedabad/Allahabad/Bombay/Delhi/Shillong and Goa. Total amount of demands raised in this regard in all the Collectorates concerned is Rs. 42,45,569.21."

7.7. The Committee regret to point out the following lapses in this case of under-assessment in the factories of Ballarpur Paper Co. and Orient Paper Mills Ltd:—

(i) The Collector took no action on the instructions issued by the Central Board of Excise and Customs on 27th July, 1970 that in case where container and contents were liable to duty separately under different tariff items and sub-items of the same tariff, they should be assessed separately at the rates appropriate to each. Wrapping paper and wrapped paper continued to be assessed at the rate applicable to the wrapped paper under earlier instructions of 1955, although wrapping paper was assessable at a higher rate. It was only on receipt of an Audit objection that

the Collector belatedly referred the matter to the Board for clarification in December, 1970.

(ii) The instructions issued by the Board on 27-7-1970 were defective in as much as it was not clarified that the previous instructions were superseded. The Central Board of Excise and Customs took as long as 11 months for reasons best known to them to issue the clarification sought by the Collector. The clarification was issued on 22nd November, 1971.

(iii) Even after receipt of the Board's clarification dated 22-11-1971, the Collector did not implement the instructions till July, 1972. Surprisingly he referred the matter to other Collectors for consultation which resulted in further delay of 8 months. The Committee deprecate this and recommend suitable action against those whose actions have resulted in loss of revenue.

7.8. The Committee require that necessary steps must be taken to ensure that instructions of the Board are precise and that they are implemented by the field officers promptly, within a specified time limit. It is necessary because confusion created in the case under examination by the Committee has resulted in under-assessments in 14 Collectorates involving a huge amount of Rs. 42.46 lakhs besides the under-assessment of Rs. 8.76 lakhs pointed out by Audit in the two cases relating to Ballarpur Paper Co. and Orient Paper Mills Ltd. The Committee would incidentally like to know the amount actually recovered in all these cases and that which has become time barred. They would also like to know the action taken for the lapses, which obviously have occurred, on the part of the departmental officers.

Under-assessment of azurelaid paper

Audit paragraph:

8.1. Printing and writing paper are assessable at the rate of 35 paise per kilogram plus twenty per cent of basic duty as special excise duty. Government of India, however, exempted those papers (other than coloured varieties thereof) of a substance not exceeding 75 grams per square metre from payment of duty in excess of 15 paise per kilogram. With effect from 1st March, 1968, this concession was extended to tinted varieties of such paper, but coloured varieties of printing and writing paper continued to be outside the scope of concessional rates. . Azurelaid paper is a variety of writing

paper characterised by its colour and to the trade it was known as coloured variety of paper. This was also supported by chemical tests. The Board, however, issued instructions in June, 1968 in consultation with the Director General of Technical Development stating that tinted variety of paper included azurelaid paper also. Accordingly, azurelaid paper was assessed at the concessional rate of 15 paise per kilogram.

8.2. Board's instructions in the matter ran counter to the trade practice as well as chemical test reports. Government of India, however, subsequently issued a notification in August, 1969 excluding azurelaid paper from the purview of the exemption.

8.3. The issue of executive instructions (in June, 1968) resulted in under-assessment of excise duty to the extent of Rs. 14,40,039 during the period from 1st March, 1968 (from the date of notification to 23rd August, 1969 in a number of factories in four collectorates.

[Paragraph 35 of C&AG's Report for 1971-72, Union Government (Civil), Revenue Receipts—Vol. I, Indirect Taxes.]

8.4. The Committee were informed by Audit that the under-assessments pointed out in the Audit Paragraph pertained to (i) Titagarh Paper Mills 1 & 2, (ii) Bengal Paper Mills, Raniganj, (iii) Indian Paper Pulp (Bangalore Collectorate) and (iv) Andhra Pradesh Paper Mills, Rajamundhry. Explaining the background of the case, the Ministry of Finance furnished a note stating that the "notifications dated 23-2-65 and 1-10-65 extended concessional rate of duty to printing and writing paper of substance not exceeding 75 grams per square metre, subject to certain other conditions. On the advice of the Ministry of Industrial Development and Company Affairs, however, it was decided to make coloured varieties of such printing and writing paper ineligible for these concessional rates; because, according to them, coloured varieties of paper were used mainly as packing and wrapping and as such should not be given the concession intended for printing and writing paper.

Accordingly, notifications dated 8-9-67 were issued amending the notifications dated 23-2-65 and 1-10-65 respectively. Consequent to issue of these notifications, all coloured varieties including Badami unbleached, creamlaid/wove paper and azurelaid/wove paper were denied the benefits of concessional rates of duty.

The Ministry of Industrial Development and Company Affairs, however, pointed out that the unbleached and tinted varieties of paper *e.g.* badami, cream, cream wove, azurelaid, azure wove are

not treated as coloured varieties in the paper technology and as such it was never their intention that these also should be subjected to the higher rate of duty applicable to packing and wrapping paper. They further suggested that the concessions being availed of by these papers as printing and writing paper before the change made in 1967 may be restored immediately. In the light of these categorical views proposal was made to restore the *status quo ante* (8-9-67) in the case of tinted papers so that these could be assessed at the original concessional rates of duty prescribed for printing and writing paper of a substance not exceeding 75 gms.

The proposal was also examined in consultation with the DGTD. They advised that unbleached and tinted varieties of paper like Badami creamlaid/wove, azurelaid/wove should not be treated as coloured varieties of paper. The DGTD stated that in the paper makers parlance the term 'Coloured' paper refers only to paper with deep colours, green, red, black, blue, etc. and these are quite distinct from 'toned' or 'tinted' paper such as azurelaid/wove, creamlaid/wove, badami etc. paper. They further stated that the Tariff Commission also recognised this in determining the extras payable for coloured paper. In the light of this advice and the recommendation of Ministry of Industrial Development and Company Affairs, it was decided to extend the concessional rate of duty for printing and writing paper to 'unbleached and tinted varieties' of such paper and the relevant notification were amended accordingly by Notifications dated 1-3-66. By these notifications distinction between coloured varieties and tinted varieties of paper was introduced for the first time."

8.5. According to written information furnished by the Ministry, there were 18 factories manufacturing azurelaid paper. This paper was classified and marketed in trade circles as "Ledger paper or writing paper, coloured variety, tinted variety, azurelaid paper, ledger printing paper." About the opinion of various Collectors on the azurelaid paper, the Ministry stated that "Collectors of Central Excise, Calcutta & Orissa and West Bengal and Hyderabad continued to hold the view that azurelaid/wove paper should be classified as 'Coloured' and not 'tinted' paper. As for all the other Collectors, no doubts were raised." The Ministry added further: "All the Collectors, except Collectors of Central Excise, Calcutta & Orissa, West Bengal and Hyderabad, assessed azurelaid paper as tinted variety of printing and writing paper. Notwithstanding Board's instructions in letter dated 22-6-68, the aforesaid three Collectors continued to assess azurelaid paper as coloured variety and, there-

fore, they were specifically directed in letters dated 26-9-68 and 7-1-69 to fall in line with the assessment practice in all the other Collectorates."

8.6. During the course of evidence, the Finance Secretary explained: "There was a definite intention of the Government to exempt tinted paper because that paper is used for writing and printing purposes. If you apply a chemical test to it, a tinted variety is also a coloured variety. A chemical test will also disclose that some colour is added to it. If you see the azurelaid paper and the deep green paper, visually, there is distinction between the two. I don't think that azurelaid paper can be used for wrapping purposes. According to the information given by DGTD now and also according to the trade practice, I would submit that, we should not have changed this notification later on (on 23rd August, 1969)." When it was pointed out that there were certain items which needed to be considered by their use and in a more careful manner and not merely by description, the Secretary replied: "Tinted and Coloured (varieties of papers) was not the best classification. Tinted is also coloured to some extent." On a suggestion that the use to which azurelaid paper was put should have been taken into account, the Secretary said: "That is what we have done in a later notification (dated 23-8-1969)".

8.7. Subsequently, in a written note, the Ministry explained how ultimately azurelaid paper was excluded from concessional rate of duty by Notification dated 23-8-1969. The Ministry stated that "Several references were received from various Collectorates like Calcutta and Orissa, Hyderabad, West Bengal regarding difficulties in making a distinction between coloured varieties and tinted varieties. On 31st July, 68 a reference was made to DGTD intimating the practical difficulties in distinguishing Tinted variety from other coloured varieties of paper as the main distinguishing factor between the two appeared only to be degree of colouring imparted to the paper. They were specifically requested to lay down a more precise criterion for distinguishing tinted variety from other coloured variety for the purpose of applying concessional rate of excise duty.

On 18-10-1968, the DGTD replied that it was difficult to lay down more precise definition or criterion for the purpose. No doubt, with the help of appropriate instruments like specre-photometer or colourimeters and appropriate colour system distinction would be possible but this could involve elaborate laboratory work, first of all to determine standards and prescribe it for further application.

The matter was, however, kept under constant examination in view of the practical difficulty experienced by the assessing officers in distinguishing tinted varieties from the coloured varieties of paper. It was observed that different practices were obtaining in different Collectorates in the assessment of tinted varieties of paper especially azurelaid/wove paper. Therefore, a joint meeting of the officials of the Ministry, Chief Chemist and the representative of DGTD was held on 1-1-69. In view of the practical difficulties, it was decided that badami cream laid and cream wove papers may be specifically given the concessional rate and all other tinted varieties including azurelaid/azure wove paper should not be accorded the benefit of concessional rates. Accordingly, notification Nos. 202/69 and 203/69 both dated 23-8-69 were issued to that effect. It may be mentioned in this connection that the above decision was dictated by the practical difficulties in distinguishing the tinted varieties of paper from the coloured varieties."

8.8. The Committee desired to know the rate of excise duty charged by the factories from the customers on azurelaid paper during the period from 1-3-68 to 22-8-69. From the information furnished by the Ministry of Finance it is noticed that—

(1) In many cases duty was initially paid by the factories at higher rates but subsequently refunds were sanctioned to them.

(2) A factory in Poona Collectorate had charged duty from the customers at higher rate though it had paid duty at concessional rate.

(3) In Bangalore Collectorate Rs. 0.84 lakhs was refunded to an assessee but he is unwilling to disclose whether or not he has passed on the benefit of refund to customers.

(4) An excess duty amounting to Rs. 0.67 lakhs was refunded to another assessee in Bangalore Collectorate but there is no evidence to show that the benefit of this refund was passed on to the customers.

(5) Rs. 3.64 lakhs were refunded to a factory in Hyderabad Collectorate out of which Rs. 2.01 lakhs was passed on by the factory to the customers through distributors by credit notes but there is no evidence to show that the benefit of the refund of Rs. 1.63 lakhs has been passed on to the customers.

8.9. The committee are distressed over the manner in which azure-laid paper classified and marketed in trade circles as coloured variety of paper and confirmed as such by chemical tests, was declared to be tinted variety of paper eligible for concessional rate of duty by a notification dated the 1st March, 1968. This sort of classification was destined to create confusion and admittedly different collectorates assessed it differently, some as tinted variety at concessional rates and the others as coloured variety at higher rate of duty. Ultimately, when the assessing officers experienced difficulty in making distinction between coloured and tinted varieties, the Government woke up to the reality and amended the earlier notification by including azurelaid paper in coloured variety assessable at a higher rate of duty but by then the public exchequer had lost revenue to the tune of Rs. 14.40 lakhs in the factories of Titagarh Paper Mills, Bengal Paper Mills, Indian Paper Pulp and Andhra Pradesh Paper Mills in only four collectorates. The Committee deprecate the tendency to provide concessions by way of exemptions in duty without knowing the practical difficulties and without laying down proper guidelines to the field staff. They would suggest to the Government to desist from laying down preferential rates of duty when the commodities entitled to such concessions are not clearly identifiable.

8.10. Even the DGTD failed to lay down a precise criterion for distinguishing tinted variety from other coloured varieties for the purpose of applying concessional rate of duty. In spite of all this, as also of the fact that azurelaid paper was being known by different names including that of the coloured variety in the market, the DGTD continued to hold that it was only the tinted variety. This is deplorable.

8.11. Grant of concessional rate of duty on azurelaid paper without proper thought resulted in different practices being followed in different collectorates. In many cases, duty was charged at higher rates but subsequently refunds were granted to the assessees. . . . It was not possible to verify whether in all such cases the benefit of refund was passed on to the consumers. In one case the assessee even refused to disclose whether or not he had passed on the benefit of refund to the consumers. In another case the factory charged higher rate of duty from customers though it had itself paid at concessional rate. The Committee hope that at least the Income-Tax Department has been informed about the fortuitous benefits to such parties.

Non-levy of duty on metallic yarn

9.1. A factory manufacturing "metallic yarn" a variety of synthetic yarn manufactured out of polyester foil (metallised) since November, 1965, without obtaining any Central Excise licence, cleared the product without payment of duty. According to a ruling given by Government, on 5th June, 1969, "metallic yarn" attracted duty as synthetic yarn. The factory was accordingly brought under Central Excise Licensing Control in October, 1970, and was directed to discharge its duty liability from 5th June, 1969 onwards. The licensee, however, paid duty only from October, 1970 onwards.

9.2. The tariff item remained the same during the period the factory was producing the metallic yarn and, therefore, the clarification of the Board issued on 5th June, 1969 was applicable from the date of production of the yarn. The yarn in question was liable to duty from the date the factory commenced manufacture, instead of from the date of issue of the ruling. The loss of revenue due to non-realisation of duty during the period from November, 1965 to September, 1970 worked out to Rs. 22,74,205.

9.3. The Ministry have replied that penal action has been taken against the party for clearing metallic yarn without payment of duty.

[Paragraphs 36 of C.&.A.G.'s Report for 1971-72—Union Govt. (Civil)—Revenue Receipt—Vol. I—Indirect Taxes].

9.4. The Committee learnt from Audit that the assessee company in this case was Rexor (India) Ltd., assessed in the Orissa and West Bengal Collectorates. The factory of the company in Calcutta had been producing metallic yarn since November, 1965 but it was brought under Central Excise Licensing Control in October 1970. Explaining the delay of about five years in bringing the factory under the excise net, the Member (Excise) of the Board deposed during the course of evidence: "Collector was wrong in not having brought this particular unit within the licensing provision. Even if they had felt that it was not liable for duty as metallic yarn, it would have in any case, fallen under the category of articles of plastic. In either case, the premises of this factory should have been located in 1965 by proper survey and brought under licensing control. As it is, in Gujarat State, it was classified and some of the units were brought under the licensing control as units manufacturing plastic." The Committee desired to know why the existence of the factory was not known to the Calcutta Collectorate between 1965 and 1970. In a note the Ministry of Finance stated that

"Metallic Yarn' was subjected to duty liability as 'Synthetic Yarn' by Tariff Ruling No. 4/69, dt. 5-6-1969. M/s. Rexor (India) Ltd. in Calcutta were producing this variety of yarn from November, 1965 onwards. The commodity (Rayon and Synthetic Yarn) was transferred from Calcutta I Division to Calcutta IX Division on 1-8-1970 and the relevant file is not readily traceable. It is, therefore, not clear what action was taken about the survey etc. after receipt on 19-6-1969 of tariff ruling No. 4/69 dated 5-6-1969. Prior to issue of tariff ruling in June, 1969, the question of locating the factory, perhaps, did not arise. Under the Central Excise law, it is the responsibility of the manufacturer to apply for licence."

9.5. The Committee enquired whether, after the Board came to know about this case, any attempt had been made to fix responsibility for the lapses. The Finance Secretary replied: "We are not in a position to take action against the Excise staff because the very fact that a penalty notice issued in the subject matter of a dispute (in another case in Gujarat) before the High Court and the High Court is yet to decide whether it is metallic yarn or not". When asked who can be officers on whom the responsibility could be fixed, the Chairman of the Board replied: "In a case like this, a Class II officer who is a Superintendent and a Class III officer who is an Inspector would be responsible for checking up this thing."

9.6. The Board issued a Tariff ruling "on 5th June, 1969 clarifying that metallic yarn should be classified as synthetic yarn falling under item 18 of Tariff". The Committee asked why it had taken the Board about four years to issue the clarification. The Member (Excise) replied: "There were certain other units under the Baroda Collectorate. They (the Excise Department) had earlier brought them under licensing control as articles of plastic. Now, where an article of plastic is made out of duty paid plastic material, it was exempted. In the course of preventive checks by one of the officers, the latter sent a sample to the Chemical Examiner for a report. The report suggested that the products would be classifiable as synthetic yarn rather than as articles of plastic. Thereafter the officer directed that the factory should be under licensing control for the purpose of levy of duty as synthetic yarn. From that time onwards, the Gujarat Chamber of Commerce made a representation to the Board. It was at that stage that the Board was seized of the matter. The memo of theirs is 18-4-1968 and the Board received it sometime in May, 1968; and from that time onwards, called for *ad hoc* report from the Collector and then we

consulted Textile Commissioner, the DGT&D and then came to the conclusion that the product was classifiable as metallic yarn and issued a clarification accordingly in June, 1969." In a note submitted subsequently, the Ministry of Finance stated that "earlier to that period, apparently all articles made of the product fell under a different item—Item 15A—which was exempt from payment of duty."

9.7. The Committee pointed out that the Calcutta manufacturer had been manufacturing metallic yarn since 1965 without a licence and without paying Excise Duty and according to Audit paragraph, penal action had been taken against the party. They enquired about the exact nature of action taken in this regard. The Finance Secretary deposed: "I am sorry to say that first information given was not correct and that it was clarified in a subsequent letter. That was our mistake and we are correcting it in November." The Chairman of the Board added: "On 12th November, 1973, a Communication has been forwarded to the Auditor General that it was wrongly reported by the Ministry that penal action had been initiated". Explaining further the action taken against the party, the Member (Excise) said: "Notices had been issued. They are pending with the Collectorate. What happened in the meantime in this. We had asked for all records with the result that progress of the Collector was held up. Not only has he taken the penal action on the show-cause notices that were issued against the party but also he was considering of taking disciplinary action against the staff who failed in their duty." The Finance Secretary added: "So far as action is concerned, I do not think any Excise authority will take action at this stage because one of the parties had gone to the High Court."

9.8. The Committee enquired on what grounds the manufacturers in Gujarat had gone to the Court. The Chairman of the Board said: "They say metallic yarn cannot be classified as synthetic yarn." The Finance Secretary added: "And they have been successful in getting the decision of the Gujarat High Court that metallic yarn cannot be brought under this and now we have gone to the Supreme Court against the decision of the Gujarat High Court." The Committee pointed out that the manufacturer in Calcutta had not gone to the Court and asked why action was not taken against them. The Chairman replied: "Since the High Court of Gujarat decided that is not Excisable and we have gone in appeal to the Supreme Court, it would rather look odd. But we are safeguarding our revenue and full revenue has been recover-

ed. They are paying the duty properly under protest. They have gone in for a departmental appeal to the Collector." The Finance Secretary added: "So far as offence and penal action is concerned, it would be prudent to wait for the Supreme Court decision. How can we take action when one of the High Courts has decided that it is not synthetic yarn? Revenue has been collected from 1970 onwards." In reply to a question the Finance Secretary said that Gujarat High Court delivered judgment on 28-4-1971. When asked why penal action was not taken in 1970 when there was no High Court judgment, the Finance Secretary replied: "A usual show-cause notice was issued. The party has gone in appeal to the Appellate Collector."

9.9. According to the information furnished by the Ministry of Finance, the manufacturer in Calcutta was registered with the DGT&D since 1970. The Committee desired to know whether Government was not expected to know at that stage whether the products for which the factory was licensed by the DGT&D were excisable or not. The Ministry stated in their note:

> "The DGT&D has reported that ' as far as it can be recalled when a case is considered for licensing, the fact whether it is excisable or not has not been taken into account'."

9.10. At the instance of the Committee, the Ministry of Finance furnished a list of manufacturers in the country producing metallic yarn, the dates on which they started production, when licensed, when charged Excise Duty and the amount of license fee lost during the non-licensing period. Out of a total of 46 manufacturers, the details of the eight units are reproduced below:

Sr. No.	Name of the party	Date on which production started	Date on which licensed	Date from which duty charged under T.I. 18	Approximate license fee lost due to non-licensing of the firm
1	2	3	4	5	6
1.	M/s. Chemicoat Ltd., Baroda	Dec. 1965	18-10-68	19-10-1968	Rs. 300/-
2.	M/s. Shobhana Silk Mills, Nasik.	Dec. 1971	15-7-72	Dec., 1971	Case not yet decided.
3.	M/s. Nurex Textiles Varanasi.	1-4-68	5-8-1969	1-4-1968	Rs. 100/-
4.	M/s. Amrit Lal Lallo Bhai Ram Vatora, Varanasi	1-4-68	21-7-69	1-4-1968	Rs. 25/-

1	2	3	4	5	6
5.	M/s. Memorexe, Varanasi	5-6-68	11-7-69	5-6-1968	Rs. 25/-
6.	M/s. Raj Industries (India), Varanasi.	5-6-68	11-7-69	5-6-1968	Rs. 25/-
7.	M/s. Varanasi Zari udyog, Varanasi.	1-4-68	19-7-69	1-4-1968	Rs. 25/-

9.11. The Committee enquired how the Excise Department came to know of the existence of a factory producing Exciseable goods. The member of the Board replied: "Whenever new commodities are brought in annually, surveys are made by the Government, but whenever the manufacture of certain commodities is started there is the possibility of getting the details by checking with the Merchants' Chamber, trade authorities and the Directorate of Industries, unfortunately in this instance (case referred to in Audit paragraph) this factory did not somehow came to the notice of the local authorities in Calcutta till this information was sent to the officers; and then they located it. But they are supposed to get the information about the new factories through the authority of the Merchants' Chamber, and also by gathering intelligence. They could have got the information from the Director of Industries, West Bengal." Subsequently in a note the Ministry of Finance stated that, "Whenever a new commodity is included in the Excise Schedule, the relevant Budget instructions invariably impress upon all the Collectors of Central Excise, the need for conducting intensive surveys to locate factories manufacturing exciseable commodities within their jurisdiction. Alongwith the Budget instructions a list of factories, readily ascertainable from published records available with the Board, is also annexed as part of the instructions, making it clear that such list was not exhaustive and it was incumbent on the Collectors to make local enquiries to locate the factories. Such local enquiries are normally made from:—

(i) Director of Industries;

(ii) Inspector of Factories;

(iii) Local Trade Associations and Organisations;

(iv) Known manufacturers of the commodity;

(v) Market enquiries;

(vi) Survey of Industrial areas etc."

9.12. At the instance of the Committee the Ministry of Finance furnished the following particulars about the issue of Central Excise license during the six years ending 1972:

"(1) Total No. of licences issued on voluntary application of the assessees	9,00,553
(2) No. of cases detected by departmental authorities	4,579
(3) No. of cases decided	4,255
*(4) No. of cases in which penal action by way of imposing penalty/R. Fine/compounding fee or duty realised, if any	4,148
(5) No. of cases dropped out [of (3) above]	107
(6) No. of cases pending	324

*In 1172 cases, the Collectors have reported the following details :

	Rs.
(i) Penalty imposed	64,920·00
(ii) R. Fine	15,280·00
(iii) Compounded Fee	3,415·00
(iv) Duty realised	50,439·99"

9.13. The Committee pointed out that during a period of six years the Excise Department had been able to detect only 4,579 units manufacturing exciseable goods against about 9 lakh units who approached of their own for the excise licence. The Committee asked what machinery to Excise Department had for this purpose. The Member of the Board replied: "This has so far been left to the Collectorates". The Chairman of the Board added: "At the time of the budget there were figures for the commodities which were introduced afresh. And with reference to these commodities only we approached the DGT&D and various other authorities to find out the places where various units are located and these are intimated to the field."

9.14. The Committee pointed out that Government had introduced a number of controls and licences. Even as a small scale industries the new units must be using imported machinery by serving import licence. The Committee asked why then the Government could not get this information from the offices in Delhi itself and why the process of collecting the information is not made a continuous process instead of doing it at the time of budget alone. The Chairman of the Board replied: "Tax research unit has got all the data. All these are considered by Government. The tax research unit is still to be expanded further and strengthened as excise duty on commodities is also expanding." The Finance Secretary added: "I accept your point, that this kind

of survey should be a continuous one and all the sources from which this information should be collected should be identified and a systematic survey undertaken. You have also said that in many cases, the factory starts with imported machinery. I do not know why this was not followed previously; but this is an idea which we should pursue. We shall also pursue the different types of information which are kept with the various officers such as DGT&D or the Director of Industries or the other offices like the factory inspectors etc. But I would accept your point that the whole thing has perhaps not been as much systematized as it should have been."

9.15. The Committee feel concerned over the failure of the Excise Department in not locating for five years a factory [Rexor (India) Ltd., Calcutta] producing metallic yarn without a central excise licence. The factory had been producing excisable metallic yarn since November, 1965 and it was only in October, 1970 that it was brought under the Central Excise net. The Committee are not satisfied with the explanation given for this failure that the action taken to locate the factory producing metallic yarn after issue of tariff advice regarding exciseability of such yarn in June, 1969 could not be gathered because the file relating to the transfer of work from one division to another in the same collectorate was not readily available and that prior to the issue of tariff notification in June, 1969, the question of locating the factory did not arise. As admitted by the Member of the Board, the Excise officials were wrong in not having brought the factory under licensing control before June, 1969. Even if it was felt that metallic yarn was not liable to duty, it would have, in any case, fallen under the category of plastics and thus become liable to excise control. No explanation has, however, been given for the failure to locate the factory prior to June, 1969. Nor has it been explained as to why the preventive officers failed to locate the defaulting factory and book a case against it. This needs a thorough investigation.

9.16. The Committee also find that in some other cases also the units were licensed after a gap of one to three years after they started production of metallic yarn. The Committee fail to appreciate why the units could not be located in time. There appears to be a clear failure on the part of the preventive Branch of the Excise Department. Incidentally, the Committee find that during the course of six years ending 1972, the Excise Department have detected only 4,579 cases of production without excise licence against 9,00 553 voluntary applications received for licences during the same period. The Committee are not satisfied with this performance. They would like the Government to investigate this aspect and tighten up their

machinery which is an essential limb to control and prevent leakage of revenue.

9.17. Another disquieting feature revealed in this case is the system adopted for locating factories producing exciseable goods. The Committee view with uneasiness the fact that the Central Board of Excise and Customs does not get to know when a factory is licensed for production. In a reasonable set-up, this should be automatically known to the relevant authorities. It is strange that one wing of the Government concerned with commodity taxation does not know when a factory is licensed by another wing, namely the Ministry of Industries. The D.G.T.&D. does not consider whether the goods produced by a factory are excisable or not before licensing it. As admitted by the Finance Secretary, the whole procedure for locating factories producing excisable goods has not been systematized. The Committee desire that a better coordination should prevail between the different wings of the Government. They also desire that the scope of local enquiry for locating the excisable units should be widened to cover the information available with State Industries Departments, Corporations, Municipalities, etc. dealing with the promotion or licensing of Industries.

9.18. The Committee are not happy over the time taken by the Board in issuing clarifications. After receiving the representation from the Gujarat Chamber of Commerce in May, 1968, regarding excisability of metallic yarn, the Board issued clarification in June, 1969, after more than a year. The Committee hope that the Board will shed such procrastination and try to set an example of efficiency and promptness for the lower formations.

9.19. The Committee would like to await the final outcome of the appeal filed by the Government in the Supreme Court in regard to levy on metallic yarn.

Non-levy of central excise duty on small steel trays

Audit Paragraph:

10.1. Central Excise Duty is leviable on steel furniture under tariff item 40. Instructions were issued by the Central Board of Excise and Customs in January, 1971 stating that 'steel trays' for serving food and/or beverages were assessable as steel furniture. It was, however, subsequently clarified by the Board in July, 1971 on receipt of representations that 'small trays' should not be treated as furniture for the purpose of levy of Central Excise Duty.

10.2. 'Small steel trays' conform to the definition of "furniture" in its ordinary dictionary meaning and excluding these from liability to duty is not correct in the view of audit, unless an exemption notification is issued under rule 8(1) of the Central Excise Rules.

10.3. Non-levy of Central Excise Duty on the basis of the clarification given by the Board resulted in loss of revenue of Rs. 18,24,918 in respect of three manufacturers in one Central Excise Collectorate, during the period from March, 1968 to April, 1972.

10.4. The Ministry have replied that in their view dictionary meaning of furniture should not be applied to steel trays and that steel trays are not to be regarded as furniture at all.

[Paragraph 37 of the Report of the Comptroller and Auditor General of India for 1971-72—Union Government (Civil) Revenue Receipts—Volume I—Indirect Taxes relating to Union Excise Duties].

10.5. The Committee learnt from Audit that the loss of revenue of Rs. 18.25 lakhs had taken place in respect of (i) M/s. Modern Tin Printers and Fabricators, Agra, (ii) M/s. Ashoka Tin & General Industries, Agra and (iii) M/s. B. S. Metal & Pressing Works, Agra. According to the Ministry, the 'Steel furniture' attracting excise duty @ 20 per cent *ad valorem*, has not been defined in the Central Excise Tariff but in 1968 when the duty was imposed, it was explained by the Ministry that steel furniture would be known to the trade as such and would also conform to the characteristics, laid down in B.T.N., of being movable, constructed for being placed on the floor or ground and used mainly with the utilitarian purpose to equip private dwelling, hotels, etc."

10.6. The Committee asked whether the intention of the Government was not to levy duty on steel trays. The Ministry replied: "In 1968 when the duty was imposed it was explained by this Ministry that the Tariff should apply to such goods as, *inter-alia*, are constructed for being placed on the floor or ground. This criterion was based on the explanatory notes to the B.T.N. In this context the original intention was not to levy duty on trays, which are not placed on the floor or ground for the purpose of use."

10.7. When asked on what grounds the Government issued instructions in January, 1971 whereby steel trays were classified as leviable to excise duty. The Ministry stated: "Although steel trays

don't satisfy the criterion of being placed on the floor or ground, it was not considered a decisive factor in the light of the judgement of the Gujarat High Court in a Sales Tax case in the case of 'Binstakes' which the court held as furniture although 'Binstakes' are not constructed for placing on the floor or ground."

10.8. In reply to another question, the Ministry stated that, "The question regarding Central Excise classification of steel trays came up for consideration in 1970. After ascertaining the views of the Collectors, the Board issued a circular dated 11-1-1971, expressing the view that steel trays for serving food and/or beverages are assessable as articles of steel furniture falling under item 40 of the Central Excise Tariff. In coming to this view it was observed that Steel Trays are movable, known to the trade as steel furniture; and used as an article of utility and convenience in furnishing offices as well as households. It was noted that they were generally not meant to be placed on the floor or ground. However, having regard to the other three points, the view was taken that the criterion of being placed on the floor/ground was not decisive."

10.9. The Committee asked what was the sales tax practice regarding assessment of these trays. The Ministry replied: "There is no uniform practice in all States. Some States levy duty on 'Steel Trays' as steel furniture while in other they are not subjected to duty as steel furniture."

10.10. When asked what was the practice in Central Excise Department regarding classification of the trays, the Ministry stated: "There was no uniform practice in all Collectorates. Some Collectorates classified these as 'Steel furniture' while some did not."

10.11. The Committee asked whether the decision taken in January, 1971 to levy duty on steel trays was reversed in July, 1971 on the basis of representations. The Ministry replied in affirmative. In reply to another question, the Ministry stated that, "after issue of the advice in regard to classification of steel trays (in January, 1971) it was brought to the notice of the Board that small trays used for carrying, by hand, food or beverages were being assessed as articles of steel furniture. Representations were received from the trade against such assessment in pursuance of which the matter was re-examined. It was felt that the fourth principle—that the articles should be constructed for placing on the floor or ground—is an essential attribute of an article of furniture. A small steel tray is normally placed on the shelf or a rack in the kitchen. Sometimes even a 'Thali' (utensil) is also used for serving a few tum-

blers of beverages or water. Therefore the function of a small steel tray is no more than that of a 'Thali'. It was felt that it would be doing violence to the concept of 'steel furniture' if such utensils were also classified as 'steel furniture'. In this view of the matter, the clarification was issued in July, 1971 to the effect that small steel trays, used for carrying food or beverages, as distinct from tea-trolleys or trolley-tray, could not be considered as articles of 'steel furniture' for the purpose of C.E.T. Item 40."

10.12. According to informatoin furnished by the Ministry, there were 21 manufacturers of small steel trays and three out of them, *viz.*, M|s. Modern Tin Printers and Fabricators, (ii) B. S. Metal & Pressing Works, and (iii) Ashok Tin & General Industries, Agra and also the National Chamber of Industries, U.P. had represented against the levy of duty on these trays.

10.13. To a question whether the Ministry had come across any case of evasion of duty by the units manufacturing steel furniture and, if so, what was the extent of evasion, the Ministry stated that "125 cases of evasion of duty involving an amount of Rs. 11,34,543.40 were noticed during the period of six years from 1968 to 1973."

10.14. The Committee are surprised how the Central Board of Excise and Customs after receipt of representations from trade, issued a clarification in July, 1971 that small steel trays used for carrying food or beverages should not be considered as articles of steel furniture for the purpose of assessment of duty. The consideration which weighed with the Board was that it was an essential attribute of an article of furniture that it should be constructed for placing on the floor or ground. But earlier in January, 1971, after considering the view of the Collectors and the trade practice, the Board had issued instructions that steel trays used for carrying food and|or beverages were assessable as articles of furniture. The view taken was that the criterion of being placed on the floor/ground was not decisive in the light of the judgement of the Gujarat High Court in a Sales Tax case of 'Binstakes' which the court held as furniture although Binstakes are not constructed for placing on the floor or ground. The Committee feel that having decided in January, 1971 to classify the steel trays as steel furniture after detailed consultations, there were no strong grounds to change the decision in July, 1971. They would accordingly like Government to re-examine the matter forthwith. It should also be ensured that duty was collected on small steel trays not used for carrying food or beverages.

10.15. In this connection the Committee note with concern that as many as 125 cases of evasion of duty to the extent of Rs. 11.35 lakhs by units manufacturing steel furniture were noticed during the period of six years from 1968. The Committee would, therefore, like to caution Government against allowing any scope for the steel furniture manufacturers to avoid or evade duty.

Levy of lower rate of duty

Audit Paragraph:

11.1. Hand knitting woollen yarn is assessed to central excise duty as worsted yarn, on *ad valorem* basis. The tariff item classifies the yarn under two categories namely, worsted, yarn, with sub-categories depending on count, and others. Hand knitting yarn falls under the category of worsted yarn. For this yarn effective rates have been prescribed by notification by the Government of India, differently for grey and processed and/or dyed yarn. The rate of duty for grey yarn is lower than that for processed and/or dyed yarn.

11.2. In a Central Excise Collectorate a mill was manufacturing hand knitting worsted yarn both from grey and dyed wool tops. For purposes of assessment, hand knitting yarn spun out of dyed wool tops was treated as grey yarn by virtue of executive instructions issued by the Central Board of Excise and Customs in July, 1967. Though in terms of value the hand knitting yarn spun out of dyed wool tops was fetching higher prices yet in matter of assessment, the tariff value as for grey knitting yarn was applied.

11.3. Thus, apart from splitting the tariff into various categories by notification, the assessment of yarn spun of dyed wool tops as grey has resulted in short levy of duty, which works out to Rs. 1,99,993 for the period from December, 1966 to January, 1972.

11.4. The Ministry have replied that grouping under the notifications being identical, once the tariff classification applicable is decided upon, the tariff value fixed for the corresponding group should be adopted and that splitting of tariff classification has been done with a view to levy varying duty which is not peculiar to woollen yarn alone. The Public Accounts Committee in their 11th Report (Fourth Lok Sabha) have pointed out that the tendency to subdivide the tariff through notifications is not strictly within the powers of the Executive, once Parliament lays down the tariff definition and classification.

[Paragraph 38 of Chapter II of C.&A.G.'s Report for 1971-72, Union Government (Civil)—Revenue Receipts—Vol. I—Indirect Taxes.]

11.5. According to the tariff hand knitting woollen yarn comes under the category "worsted yarn" which, again is classified based on its count. However Government have by issue of a notification fixed effective rates differently as under:—

Grey	..	5 per cent
Processed and/or dyed	..	13 per cent

By executive instructions the Board have ordered that hand knitting yarn spun of dyed wool tops should be classified as 'grey' as different from processed and/or dyed yarn. Again in the matter of assessment, tariff values have been fixed separately for grey and processed/dyed yarn on the basis of weighted average for that category of yarn.

11.6. According to information furnished by the Ministry at the instance of the Committee, hand knitting yarn spun from dyed wool tops is "reported to be marketed as grey, coloured and processed yarn."

11.7. The Committee learnt from Audit that duty to the extent of Rs. 2 lakhs had been short-levied in the case of Bengal National Textile Mills, assessed in the Calcutta and Orissa Collectorates. The following table shows the comparative value of grey yarn and yarn spun from dyed wool top by the concerned mill during the period 1968 to 1971:

Year	Price of grey yarn	Price of yarn spun from dyed wool top
1968	Rs. 30 to 45 per Kg.	Rs. 61 to 70 per Kg.
1969	Rs. 39 to 45 per Kg.	Rs. 65 to 66 per Kg.
1970	Rs. 36 to 45 per Kg.	Rs. 63 to 70 per Kg.
1971	Rs. 42 to 44 per Kg.	Rs. 69 to 70 per Kg.

11.8. The Committee desired to know the prices of such yarn produced by other mills. The Ministry stated: "Prices of hand knitting yarn range from Rs. 53 to 195 per Kg. in the organised sector and from Rs. 31 to 110 per Kg. in the small scale sector depending upon the quality of the raw material used etc."

11.9. The Committee asked how Government had come to the conclusion that yarn spun from dyed wool tops should be treated as grey yarn, whether any technical opinion had been obtained and whether Government had kept in view the price factor of such

yarn. The Ministry stated: "Notification No. 194/66 dated 9-12-66 provided for two categories of hand-knitting yarn, namely: (i) 'grey', and (ii) 'processed and/or dyed'. Since the yarn spun from dyed wool tops was not dyed or subjected to any other processing after spinning, it could not be categorised under the head 'processed and/or dyed' yarn. It was, therefore, correctly treated as 'grey' yarn. Indian Woollen Mills Federation also indicated that the yarn spun out of dyed wool tops was treated as grey yarn in commercial circles. No technical opinion was obtained before taking the decision. Price factor was not kept in view before issuing the instruction F. No. 10/2/67-CX. II dated 22-7-67. However, it was observed before issuing the instructions that only about 9.5 per cent of hand-knitting woollen yarn was manufactured out of dyed wool tops."

11.10. The Committee asked what steps Government proposed to take to prevent such low incidences of duty on hand knitting yarn spun from dyed wool tops as compared to the prices of such yarn. The Ministry replied: "Amendments to Notns. 139/73 dated 7-7-73 and 165/73 dated 1-9-73 have been issued to bring the woollen yarn spun from dyed wool at par with the woollen yarn dyed after spinning, both for the purpose of determining the rate of duty and tariff values. The situation has, therefore, been remedied."

11.11. In reply to another question, the Ministry stated that, "these tariff values have since been revised under Notification No. 165/73-CE dt. 1-9-73. This time the following changes in the tariff value notifications have been made:—

(i) 'Hair belting yarn' has now been deleted from the purview of T. V. This is because this yarn has now been totally exempted from excise duty under Notn. No. 166/CE dt. 1-9-73.

(ii) For the purpose of assessment, hand knitting worsted yarn spun from dyed wool tops has now been treated as processed yarn under Notn. 155/73-CE dt. 11-8-73. Accordingly, a similar change has now been made in the description against Sl. No. 1(a) of the tariff value notification. Such yarn will get assessed to duty on the basis of T. V. prescribed for processed and/or dyed hand knitting yarn. The T. V. fixed under the current notification were based on the recommendations made by the Additional Director S&I Branch who had taken over the work of review of T. V. from the office of the Economic Adviser in the Ministry of Industrial Development."

11.12. The Committee desired to know what action Government proposed to take on their observations referred to in the Audit paragraph. The Ministry stated: "While the issue of some exemption notifications may have the effect of sub-dividing the tariff, it may be mentioned that most such notifications are issued at the time of Budget and are discussed along with the Finance Bill. The incorporation of such exemption notifications into the Central Excise Tariff would involve large scale amendments of the First Schedule to the Central Excises and Salt Act, 1944. It will be appreciated that the Finance Bill which is mainly intended to give effect to the revenue proposals of the Government cannot be burdened with other amendments of this type, not having any direct bearing on the revenue proposals. In the circumstances, this aspect of the matter could best be taken up at the time of general revision of the existing Central Excise Tariff."

11.13. The Committee are unhappy that in this case although the price of yarn spun from dyed wool tops was about 1½ times that of grey yarn, the former was assessed as latter under the executive instructions issued by the Board in July 1967. This resulted in short levy of duty amounting to Rs. 1,99,993 for the period from December 1966 to January 1972 in respect of one mill (Bengal National Textile Mills) alone. It is regrettable that the Board issued instructions without obtaining technical opinion and having no regard to the price factor. This seriously requires explanation and fixation of responsibility under advice to the Committee.

11.14. The Committee note that the amendments to notifications were issued on 7th July, 1973 and 1st September 1973, to bring the woollen yarn spun from dyed wool at par with the woollen yarn dyed after spinning for the purpose of determining the rate of duty and tariff values. The situation has therefore been remedied. The Committee fail to understand and entirely deprecate the delay of over 6 years in doing so. This even gives rise to unpleasant suspicion. They desire that such instances should not recur.

11.15. In paragraph 1.25 of the 111th Report (4th Lok Sabha) the Committee had suggested that Tariff schedules should be left to be framed by Parliament and the tendency to sub-divide the tariff through notifications should be stopped. The Committee were informed in October, 1970 that steps were being taken to review the existing sub-divisions brought about by notifications and that in respect of such of those as were of a permanent nature, Government would consider making them a part of the Tariff. This matter, thus, is hanging fire for almost five years and the Committee would

like to have a detailed report on the outcome of the review immediately.

Proforma Credit Procedure—Irregularities in:

Audit Paragraph

12.1. Rule 56-A of the Central Excise Rules permits entry of duty paid raw materials and components into a factory for manufacture of finished goods and to obtain credit for the duty paid on such raw materials and|or components as a set off against payment of excise duty on the finished goods in which the raw materials, component parts are used.

(i) In response to a request from a factory which manufactures vegetable non-essential oil, soap, vegetable products etc., that its own plant did not have the capacity to carry out hardening of groundnut oil, the Collector of Central Excise permitted another factory to receive a quantity of solvent extracted groundnut oil for hardening on behalf of the first factory for eventual return. The factory which received the duty paid vegetable non essential oil, availed of proforma credit to the extent of Rs. 65,314 and utilised the credit so taken for payment of duty during the period 1st July, 1968 to 23rd September, 1968 on the soap manufactured by them even though they were not entitled to utilise the credit as the oil was returned to the first factory and the first factory has not paid duty.

12.2. The Ministry have replied that after giving permission to the party in 1968 the Collector referred the matter to the Board in May, 1970 seeking Board's approval *ex post facto*. The Board having refused the permission, a demand notice for Rs. 65,672 was issued on 2nd March, 1971.

[Paragraph 40(i) of C&AG's Report for 1971-72, Union Government (Civil)—Revenue Receipts—Vol. I—Indirect Taxes].

12.3. The Committee learnt from Audit that the proforma credit had been irregularly availed of in the instant case by Swastik Oil Mills, Bombay. According to Audit, this type of adjustment is not admissible in the following cases:

(i) Where finished goods are fully exempt from duty.

(ii) Where remission is not specifically sanctioned by Government by notification.

12.4. In the present case, Swastik Oils Mills had been permitted to bring V.N.E. Oil for conversion to technical hardened oil on behalf of a second factory, and for this the second factory had to pay only conversion charges to the first factory. That means the oil belonged to second factory only. Hardened technical oil is not excisable. Therefore the procedure is not applicable to the present case. Permission was granted by the Collector to avail of the procedure in this case on 29-5-1968, but it is reported that this approval was subject to approval of the Board. The Collector sought for such approval only in May, 1970, when the Board advised that the benefit of the procedure was not available in this case. Duty was demanded on 2-3-1971.

12.5. Explaining how the proforma credit was allowed in this case, the Ministry stated in a note that, "this was not merely a case of processing. It meant conversion of duty paid V.N.E. Oil (falling under Tariff Item 12) into a technical hardened oil (falling under tariff description of Vegetable produce under item 13). As the Rule 56A then stood, procedure prescribed thereunder was applicable because 'Vegetable product' was specified under sub-rule (1) of Rule 56A and there was specific remission of duty on processed V.N.E. Oil if used for the manufacture of Vegetable Product by Notification 33|63 dated 1-3-1963".

12.6. However according to Audit, "even at the time of permission it was known that the oil was meant for the conversion into 'technical hardened oil' which was exempt from duty and so that proforma credit afforded amounts to refund of duty paid on vegetable N.E. Oil which is otherwise not permissible."

12.7. The Committee asked what was the occasion for the Collector to approach the Board in May, 1970. The Ministry replied: "Permission was granted to M|s. Swastik Oil Mills by the Collector subject to approval by the Board and subject to conditions set out in his letter No. V-12(30)|16|68 dated 28-5-68. Accordingly the Collector approached the Board for approval of his action (in May, 1970).

12.8. To a question when the Board gave their advice to the Collector, the Ministry stated: "The view of Board's office was given as per their letter F. No. 12/11/70-CX-8 dated 29-1-1971. The letter was issued after taking approval from Deputy Secretary. Since the Collector was not satisfied with the reply, he again made a reference to the Board explaining the scope in his view of Rule 56A as it stood prior to 1-1-1969 and sought final orders of the Board. While

Collector's further reference was under examination, the matter was received in the form of a Draft Audit Para. No final orders have been issued to the Collector at this stage since the matter is subject matter of Audit Report 1971-72".

12.9. The Committee asked how was the duty credit allowed to the factory to be adjusted for payment of duty on soap in this case. The Ministry stated: "M/s. Swastik Oil Mills utilised proforma credit towards payment of duty on Soap during the period from 11-7-68 to 23-9-68 that is prior to amendment of Rule 56A. Such utilisation of proforma credit was in order under erstwhile Rule 56A, because there was no provision as introduced subsequently by sub-rule 3 (vi) of Rule 56A effective from 1-1-1969".

12.10. However, according to Audit, "although Rule 56A was not specific prior to 1-1-1969, the Law Ministry's opinion communicated in Board's letter No. F. 24|4|67-CX-VI dated 22-6-1968, sets beyond doubt the position prior to 1-1-1969. According to the opinion the use of raw material|component parts in the finished product is a pre-condition for availing the credit in the proforma account. As the factory did not use the hardened oil in the finished product 'soap' manufactured by them, the permission to avail the credit in the proforma account given by the department runs contrary to the instructions of the Board and the opinion of the Law Ministry."

12.11. The Committee enquired about the present position of the demand issued on the 2nd March, 1971. The Ministry stated that, "demand has not been enforced as the matter is still under Board's examination which in turn has been kept pending because it is the subject matter of Audit Report 1971-72 and final views of the Public Accounts Committee are awaited."

12.12. The Committee understand that the Ministry of Law have opined in another case that even under Rule 56-A of the Central Excise Rules, as it stood before 1-1-1969, the use of raw material/component parts in the finished product is a precondition for availing of the credit in the proforma account. Therefore, the Committee are of the view that in the present case, as the hardened technical oil was exempt from duty and it was not actually used by the factory (M|s. Swastik Oil Mills) for the manufacture of the finished product 'Soap', the permission granted to follow the proforma credit procedure and adjustment of duty on soap against the credit available in the proforma account was irregular. In this connection, the Committee would like Government to examine whether there was any other case of irregular applications of Rule 56A in the Collecto-

rates concerned or in other Collectorates prior to 1969 and report to the Committee.

12.13. The Committee are unhappy over the delay of two years on the part of the Collector in referring the matter to the Board after giving permission to the party in May 1968 to avail themselves of proforma credit procedure. The Board took another 8 months to give the advice. The demand for duty amounting to Rs. 65,672 issued on 2nd March, 1971 has not yet been enforced. The net result is that the amount of credit irregularly received by the factory in May, 1968 has not been recovered so far. The Committee require that responsibility for the delay at various levels should be fixed for appropriate action under advice to them.

Audit Paragraph

12.14. Yet another factory manufacturing cloth-based and paper-based laminated sheets, has been availing of duty credit in respect of paper and a particular variety of resin. No duty credit is admissible in respect of cloth as the varieties of cloth used in the laminated sheets are exempt from duty. The factory however, irregularly appropriated the credit due in respect of paper and resin, for clearance of fabric-based laminates in the manufacture of which neither paper nor resin was used.

12.15. When this irregularity in respect of the credit utilised in May, 1970 was pointed out in audit, the department raised a demand for Rs. 24,539 which is pending realisation. Credit availed of in similar clearances in respect of other periods noticed in audit works out to Rs. 1,63,714.

12.16. The Ministry have replied that local officers have worked out the total irregular credit availed of by the factory at Rs. 4.70,336 for the period from March, 1969 onwards, and that demand notices have been issued.

[Paragraph 40(v) of Chapter II of C&AG's Report for 1971-72, Union Government (Civil)—Revenue, Receipts Vol. I—Indirect Taxes]

12.17. The Committee learnt from Audit that in this case the proforma credit had been irregularly availed of by Bakelite Hylam Ltd., Hyderabad. According to information furnished by the Ministry of Finance, this irregularity became known to the Department when the Accountant General's audit party pointed out this irregu-

larity by their Inspection Report dated 29th December, 1970. The Committee desired to know what action was taken by the Department since 29th December, 1970 when it came to their notice. The Ministry replied: "Show cause notice was issued to the party on 31st July, 1971 and after observing the principles of natural justice the Assistant Collector confirmed the amount in an appealable order and formal demand was issued for Rs. 24,538.70 on 10th November, 1971. Another demand for Rs. 4,45,796.92 was issued on 6th December, 1972 covering the period from March 1969 to July, 1971 after checking the records of the firm upto September, 1972. The assessee has been allowed to pay the entire amount in instalments within a period not exceeding 6 months. First instalment of Rs. 24,538.70 was duly paid on 5th May, 1973."

12.18. When asked how long this irregularity continued, the Ministry replied: "Upto July, 1971 whereafter the correct procedure is being followed."

12.19. To a question whether this irregularity was at any time noticed by the Departmental Inspection Group, the Ministry replied in the negative. When further asked whether this factory was visited by the Assistant Collector or Collector after March, 1969 and if so, how they reviewed the assessment without noticing this irregularity, the Ministry replied: "Yes. However, the factory *viz.* M|s. Bakelite Hylam started functioning under S.R.P. with effect from 1st August, 1969. It is neither necessary nor possible for the Asstt. Collector, Deputy Collector and Collector to check all assessments in detail in the course of their visit to the factories. Nor is there any indication from the available records that the Asstt. Collector or Collector checked the gate passes in sufficient detail to enable them to detect the irregularity."

12.20. The Committee desired to know if stock taking of materials in balance in this firm was done at any time between March 1969 to July 1971 and if so, what were the results thereof. The Ministry replied: "The stock taking was conducted for the year 1969 on 2nd January, 1970, for the year 1970 on 25th September, 1970 and for the year 1971 on 4th September, 1971. No discrepancies were reported by the stock taking officers. It may also be clarified that during the stock-taking of materials also the error involved in making payment of duty in respect of fabrics based laminates by debiting the R.G. 23 account could not be detected."

12.21. The Committee asked how it had been ensured that the materials on which proforma credit was taken were actually used

in finished goods. The Ministry replied: "This is normally done through checking by Inspection Groups."

12.22. According to Audit the recoveries made from the assessee were being recredited to the same account. The Committee asked how far it was correct and whether this had been checked up with the materials in stock. The Ministry replied: "The recoveries made by debiting the amounts in the PLA are being credited to the proforma account. There appears to be nothing wrong in this as the factory has been and is still manufacturing paper based laminates out of duty paper received in the factory. For this purpose only checking the materials in stock does not appear necessary."

12.23. However, according to Audit "a re-credit in the proforma account amounts to a refund to the factory which can be done only under the provisions of Rule 11 and this rule does not provide for such refund. Further, affording in the proforma account without sufficient stock of the materials for which the credit has been afforded in the proforma account is not in consonance with Rule 56A."

12.24. The Committee regret to observe that the Excise Department failed to detect in this case that the factory of Bakelite Hylam Ltd., Hyderabad had been, since March 1969, irregularly appropriating the credit due in respect of paper and resin for clearance of fabric-based laminates in the manufacture of which neither paper nor resin was used. The irregularlity was pointed out by the Accountant General's Audit Party in their Inspection Report as early as on 29th December, 1970. The irregular credit availed of by the factory from March, 1969 to 31st July, 1971 worked out to Rs. 4,70,336. It is unfortunate that the irregularity did not come to notice (if it was genuinely so) during the inspection of the factory by the Assistant Collector and the Collector after March, 1969.

12.25. The Committee are unhappy that after the irregularity was pointed out by audit in December, 1970 there was inordinate delay in issuing "show cause notice" to the party who was allowed to continue the irregular practice upto 31st July, 1971. This gives rise to serious suspicion of collusion. The Committee desire that responsibility should be fixed for appropriate penal action under advice to them.

12.26. The Committee note that recoveries from Bakelite Hylam Ltd., are being re-credited to the proforma account. According to Audit a recredit in the proforma account amounts to a refund to the factory which can be done only under the provisions of Rule 11.

Further affording credits in the proforma account without stock of material for which the credit has been afforded in the proforma account is not in consonance with Rule 56A. The Committee desire that the position may be explained in consultation with Audit.

Less realisation of revenue due to fixation of low rates of compounding duty

Audit Paragraph

13.1. Plywood is assessable to duty at 15 per cent *ad valorem*. By a notification issued in July, 1966 a monthly compounded rate of Rs. 90 per hand press was fixed by Government and when a manufacturer paid the sum calculated at this rate, his liabilities for the duty leviable on the coarse grain plywood produced by him during the period covered by the payment is deemed as discharged. Such a manufacturer was not required to follow the central excise procedure for clearance of plywood from his factory.

13.2. A coarse grain plywood factory in a collectorate having only one press was permitted to avail of the special procedure from March, 1967. The factory's production of coarse grain plywood in 1969-70 amounted to 87,469 sq. m. (in terms of 4 mm. thickness) valued at Rs. 5,05,317 had duly been levied at tariff rates on the basis of the tariff value fixed by Government realisation of duty would have been Rs. 39,734 as against Rs. 1,080 collected at the compounded levy without regard to average production per hand press has, therefore, resulted in less realisation of revenue to the extent of Rs. 38,654 in 1969-70 and Rs. 1,22,530 for the period April, 1970 to March, 1972.

[Paragraph 41 of the Report of the Comptroller & Auditor General of India for 1971-72, Union Govt. (Civil) Revenue Receipts, Vol. I—Indirect Taxes relating to Union Excise Duties]

13.3. The Committee understood from Audit that the assessment in this case related to M|s. Oriental Timber Industries, Cochin and that the factory appeared to have employed a hydraulic manually operated press for production of plywood. By pressing the plywood formed in the press subsequently by means of clamps, he could increase his production. Thus the rate of duty fixed by Government and paid by him bear absolutely no relation to the production and sales. That is, his sales far exceeded the quantum of production estimated at the rate of Rs. 90 per month per press. At the

rate of Rs. 90 his production was estimated by the department to be only 2244 sq. metre (of 4 mm thickness) whereas annual production was actually 116257 sq. metres. Besides, the plywood manufactured by him was sold on an average price of Rs. 5 per square metre, while Government have been taking the value of commercial plywood at Rs. 3.20 per square metre for assessment.

13.4. According to the Ministry the rate of Rs. 90 per hand press was fixed for the purpose of compounded rate on the basis of the recommendation of the then Director of Inspection, Custom & Central Excise, who had made a very detailed factual study of the nature of the equipment used, extent of production per hand press and the average price realised. This study was at that time confined to the Calcutta and Orissa Collectorate where most of the factories were concentrated.

13.5. There are about half a dozen units in addition to Oriental Timber Industries in the Collectorate of Central Excise, Cochin. Out of these, one has Hydraulic Press. Clearances from this one unit were 74627 sq. metres, 1,31,007 sq. metres and 1,18,338 sq. metres during 1970-71, 1971-72 and 1972-73 which compares more or less with the production of Oriental Timber Industries.

13.6. The Committee desired to know the price of plywood produced by the factory in the present case and how this price compared with the price of commercial plywood and with coarse grain plywood produced by others. The Ministry stated that "the price of plywood produced by the party varies from Rs. 2.75 to Rs. 4.00 per sq. metres of 4 mm thickness. The average price of commercial plywood varies from Rs. 3.39 per sq. metre to Rs. 4.33 in different areas during quarter ending March 1972. Average price of coarse grain plywood produced on hand presses during 1972 varies from Rs. 2.70 per sq. metre to Rs. 5.85 per sq. metre in different Collectorates."

13.7. The Committee asked whether Government had conducted any study of the pattern of production and pricing of all types of plywood. The Ministry replied: "No study was undertaken by the Government recently on the general pattern of production and prices of different varieties of plywood. However, limited study of the trend of production and prices of only these varieties of plywood and boards for which tariff value have been fixed, was undertaken. The study was undertaken with the limited objective of reviewing the tariff values fixed (revised) for different varieties of plywood

and boards in Feb., 1970. The review was undertaken on the basis of data of clearance and assessable values of different varieties of plywood and boards from selected centres of production as well as on the basis of the latest prices published by the leading manufacturers. The conclusion reached was that the prices of almost all varieties of plywood have gone up during the period from 1969 to 1972, roughly by about 16 per cent."

13.8. When asked what machinery Government had to review the rate of levy from time to time, the Ministry replied: "In the Central Board of Excise and Customs, 4 Sections working under 4 Under Secretaries and 2 Deputy Secretaries are assigned the work of dealing with the commodities under Central Excise taxation. Each section deals with a specified list of commodities. In respect of commodities under the compounded levy scheme, the Officers in charge of the respective sections scrutinise periodically whether any representations have been received for a downward revision of the compounded levy rates. Such representations are examined in the section and in consultation with the Director of Inspection (Customs and Central Excise). If any changes are warranted, they are implemented through notification after obtaining Minister's approval.

At the time of formulating the Budget proposals in respect of a duty, where the rates of duties are altered, the compounded levy rates are also simultaneously scrutinised by the Tax Research Unit which work out the Budget proposals and an upward or downward revision as the case may be is suggested by it.

The Director of Inspection (Customs and Central Excise) has been directed to periodically review and report on the rates of compounded levy in respect of all the commodities under compounded levy. Proposals formulated by the Director of Inspection are scrutinised by the Ministry for taking appropriate action."

13.9. The Committee asked when the Director of Inspection was directed to conduct review of compounded rates of duty, in how many cases he reported the review and what action was taken on such review. The Ministry furnished the particulars which are reproduced in Appendix. I.

13.10. The Committee asked whether Government had any policy regarding the extent of relief to be afforded to those working under compounded levy scheme in general. The Ministry stated that "in the nature of things, it is not feasible to evolve fixed norms applicable to all commodities brought within the purview of different

compounded levy schemes. The following are the broad considerations kept in view, namely:

(i) the nature of the equipment used is generally the same;

(ii) the type of product manufactured is more or less the same in all the units;

(iii) the average production per equipment is easily ascertainable;

(iv) the rate is calculated with reference to the average production having regard to the normal incidence of breakdowns, level of prices etc. and also keeping in view that the incidence of tax collected as compounded levy leaves sufficient incentive for the parties concerned to opt for the compounded levy instead of having clearances under the normal system of control."

13.11. In reply to a question as to how many factories were producing coarse grain plywood and how many of them paid duty under the compounded levy, the Ministry replied: "As per statistics available upto December, 1972, 124 factories were manufacturing coarse grain plywood on hand presses out of which 119 were working under compounded levy and the balance 5 under the normal procedure."

13.12. The Committee asked whether Government were thinking of any alternative scheme of levy of duty or any modification of present scheme to overcome avoidance of duty as in the case referred to in Audit paragraph. The Ministry stated that "the question whether units which employ hand operated Hydraulic Press should, as a class, be excluded from the purview of the compounded levy scheme for coarse grain plywood, is a matter which is already under examination separately. As for any other alternative scheme in general recommendations of the Central Excise Self Removal Procedure Review Committee will be examined."

13.13. The Committee are surprised that in this case a coarse grain plywood factory (Oriental Timber Industries, Cochin) using a hydraulic press operated by manual labour was permitted to avail itself of the special procedure to pay duty at a monthly compounded rate of Rs. 90 per hand press which was fixed in 1966. The factory's actual production of 87469 sq. metre (valuing Rs. 5,05,317) in 1969-70 if assessed at tariff rates would have brought Government duty amounting to Rs. 39,734 as against Rs. 1080 actually collected at the compounded rate. The Committee have been informed that

there was another factory in the same collectorate using hydraulic press, whose production compares more or less with the production of the unit referred to in the Audit paragraph. They also note that the question whether the units which employ hand operated hydraulic press, should, as a class, be excluded from the purview of the compounded levy scheme is under examination. It is strange that despite considerable leakage of revenue, since 1966, the question has been clearly lost sight of all these years. The Committee cannot but take a serious view of such laxities in the Excise Administration. It should be examined whether the application of compounded rate to the units employing hydraulic presses ab initio was proper.

13.14. The Committee find that the compound rate of Rs. 90 per month was fixed on the basis of the recommendation of the Director of Inspection who made a detailed factual study of the nature of the equipment used, extent of production per hand press and the average price realised only in one collectorate i.e. Calcutta and Orissa Collectorate. If the object was to fix a uniform rate of compounded levy, the survey should not have been confined to one collectorate.

13.15. The Committee are unhappy over the delay in revising the rate of duty fixed in 1966. Although the price increase of all varieties of plywood was about 16 per cent during the period 1969 to 1972—the increase would have been far higher between 1966 and 1973—Government revised the rates of compounded levy only in 1973. The Committee wish to emphasize that compounded levy system can be worked successfully only if the department carries out a periodical review of the rates fixed to see, whether having regard to the market condition and the type and quantity of goods produced, the rates are realistic. Such a review of all the commodities is called for immediately.

13.16. Incidentally, the Committee find that 5 of 124 factories manufacturing coarse grain plywood on hand presses have chosen to remain out of the compounded levy scheme. It should therefore be seen whether the normal procedure allows any scope for evasion of duty. This question as well as the recommendations of the Self Removal Procedure Committee regarding alternatives to the compounded levy scheme to check avoidance of duty, should be examined speedily and the outcome reported to the Committee.

Non-Licensing of Merchant Manufacturers

Audit Paragraph

14.1. Rule 174 of the Central Excise Rules, 1944 requires every manufacturer of excisable goods to obtain a licence for the conduct

of his business in regard to such goods. The term 'manufacture' has been defined in section 2(f) of the Central Excise Act and includes any process incidental or ancillary to the completion of a manufactured product. The word 'manufacturer' has been defined to include not only a person who employs hired labour in the production or manufacture of excisable goods, but also any person who engages in their production or manufacture on his own account.

14.2. The Ministry of Law clarified in May, 1968, the scope of the term 'manufacturer' to include one who supplies raw materials and pays labour charges for having goods manufactured for him.

14.3. Again in April, 1970 the Law Ministry opined that 'manufacturer' would include a person who has not himself employed labour but engages himself in the production or manufacture of goods through an independent contractor. Merchants who send grey or semi-processed cotton or artificial silk fabrics and other such goods for processing into finished excisable goods on their behalf should be treated as 'manufacturers'. Accordingly they are required to obtain licence under the Central Excise Rules. The Central Board of Excise and Customs, however, issued instructions in May, 1970 making licensing optional for such merchants. In cases where processing factories, already licensed undertook to observe the excise formalities on behalf of such merchants who sent their goods for processing, the merchant manufacturers were not to be subjected to licensing control under the Central Excise Rules.

14.4. These instructions are not in conformity with the legal position as clarified by Law Ministry, and have resulted in loss of revenue due to non-collection of licence fees. In only three collectorates such sum amounted to Rs. 93,150 for the years 1968 to 1970.

[Paragraph 44 of the Report of C&AG for 1971-72—Union Government (Civil)—Revenue Receipts—Vol. I—Indirect Taxes relating to Union Excise Duties].

14.5. During the course of evidence the Committee pointed out that under the existing Act a merchant who sends grey or semi-processed cotton or artificial silk fabrics and other such goods for processing into finished excisable goods on his behalf should be treated as manufacturer. Accordingly, he is required to obtain licence under the Central Excise Rules. The Committee asked how, contrary to legal position instructions were issued by Government. In May, 1970 making licencing optional for such merchants. The Secretary to the Ministry of Finance replied: "There are two aspects involved in this—the legal aspect and the practical aspect.

So far as legal aspect is concerned, I can say that the Board exceeded the authority given to it under this section. If there was any practical difficulty, the right thing would have been to suggest an amendment to this section, rather than issuing executive instructions to get over this practical difficulty." The Member of the Board added: "Even earlier than 1970, when specific duties were converted into *ad valorem* duties, processors were being licenced and not the merchants. The problem arose when we converted the specific duties to *ad valorem* duties. But, then, the processors did come up saying that it may be difficult for them to take over the responsibility, and as such, at that time, we consulted the Law Ministry and their advice was that, legally, merchants should be licensed. We made it optional because of the reason that control should be exercised over the processors. It was the processors who had to pay the duty because merchants were actually the owners of un-processed art silk which were not liable to duty." The Committee asked if the merchant received the processed goods back from the processor. The Member of the Board replied: "After payment of the duty by the processors, we had ensured, through control over the processors, that the whole of the duty will be recovered from the processors." The Committee pointed out that if the merchants were made manufacturers and they took the licence, which was also the legal view, they would also pay duty on the goods duly processed. The Member replied: "Practically, it was easier to get the duty from the processor. Eventually, the revenue had to be collected and it could be collected more easily from the processors who process the goods." The Chairman of the Board added: "The number of processors as compared to the number of merchant is very very small. The number of merchants is so large, that we would be licensing them for no purpose except perhaps to collect some licensing fee. From the point of view of the Central Board of Excise and Customs, and from the revenue angle, there was no question of bringing them under the net. In spite of the Law Ministry's view, this was considered at that stage by the Board, and two Members of the Board and the Chairman came to the conclusion, that the basic factor involved was to bring those processors into the excise net."

14.6. The Committee asked what steps Government would take to ensure that it acted in accordance with the law. The Chairman replied: "That is right. The rule is being amended." The Secretary to the Ministry added: "We shall go to the Legislature to get the necessary powers for meeting a situation of this kind..I admit that as soon as the difficulty come to notice, we should have started

to examine it, whether a change in the law would be possible, and should have taken it to the legislature."

14.7. The Committee desired to know whether Government have come across any case of evasion of duty on art silk when the merchants who are not licensed are involved. In a note the Ministry stated:

> ".....in the Collectorate of Central Excise, Bombay, 60 cases were registered against independent licensed processors and licensed art silk manufacturers mostly for mis-classification of goods resulting in payment of duty at lower rates and for clearance without payment of duty. Out of 60 cases in 40 cases the goods involved belonged to art silk merchants and there are *prima facie* reasons to believe that the misclassification done by the processors was on account of incorrect information furnished by the merchants in the documents under which grey fabrics were sent for processing to the said processors, so far 23 cases have been adjudicated by imposing personal penalties on the licensees and goods where confiscated were allowed to be redeemed by art silk merchants on payment of fine if the same belong to them. In two cases proceedings have been dropped."

14.8. The Committee wanted to know, what safeguards had been devised by Government against incorrect/wrong declarations of prices, quality of goods etc. and whether the Ministry of Finance had got this point sorted out with the Ministry of Law. The Ministry of Finance stated in a note that adequate provisions exist in the Rules to take care of such misdeclarations. Rule 3 which reads as follows:

> "Why any person is expressly or impliedly authorised by owner of any goods, factory or warehouse to be his agent in respect of such goods, factory or warehouse for all or any of the purposes of these rules and such authorisation is approved by the Collector; such person shall, for such purposes, be deemed to be the owner of such goods, factory or warehouse."

will adequately safeguard against such misdeclarations of value etc. and therefore there is perhaps no need to make a reference to the Ministry of Law."

14.9. The Committee note that according to the opinion of the Ministry of Law, merchants who send a grey semi-processed cotton or artificial silk fabrics and other such goods for processing into finished goods on their behalf should be treated as manufacturers and would be subject to excise controls and formalities. But considering the practical difficulties in licensing a large number of merchants, the Board issued instructions in May, 1970, making licensing optional for such merchants. In cases when processing factories already licensed undertook to observe the excise formalities, the merchant manufacturers were not to be subjected to licensing control. The Committee note the administrative difficulty in this regard. But they regret to observe that instead of amending the Rules suitably the Board have exceeded their authority by issue of executive instructions and foregone revenue in the shape of licence fees. The Committee desire that the necessary amendment to the Rules should be made forthwith.

Revenue Forgone in Assessment of Motor Vehicles

Audit Paragraph:

15.1. Rule 8(1) of the Central Excise Rules empowers the Government to exempt by issue of notification in the official gazette any excisable goods from the whole or any part of duty leviable on such goods. In regard to the scope of this rule, the Attorney General expressed the view in February, 1970, with reference to a recommendation of the Public Accounts Committee, that the Government while giving exemption have no powers to alter the mode of levy from that prescribed in the Central Excise Tariff.

15.2. Heavy duty motor vehicles became assessable to central excise duty under tariff item 34(4) with effect from 1st March, 1960. The duty as levied by Parliament is at Rs. 2,500 per vehicle or 12.5 per cent *ad valorem*, whichever is higher. By a notification issued in November, 1965 certain concessional rates of duty were prescribed by the Government of India categorising the vehicles for this purpose, as light, medium and heavy, based on the gross vehicular weight. The rates were in some cases higher than Rs. 2,500 laid down in the tariff and, in others, lower than this sum. The rate prescribed in 1965 by the Government had the effect of altering the basis of the duty as laid down by Parliament in that the notification limited the levy only to a specific rate whereas the tariff fixed it at the higher of the two rates calculated on specific as well as on *ad valorem* basis. In 1972 again by another notification the

Government revised the rates at specific rates varying from Rs. 1,800 to Rs. 5,340 or 15 per cent *ad valorem* whichever is lower. This is also contrary to the basis of the tariff which authorises levy at the higher of the two rates.

15.3. Computed with reference to the *ad valorem* rate of duty (being higher), the amount of revenue forgone by Government is Rs. 1,05,71,731 during the period September, 1968 to September, 1971 in only a few cases. The Ministry to whom the para was forwarded in July, 1972 have replied in February, 1973 that they propose to obtain Law Ministry's opinion whether their action in issuing the notification is in accordance with Attorney General's opinion or not.

[Paragraph 45 of the Report of the C&AG of India for 1971-72—Union Govt. (Civil) Indirect Taxes relating to Union Excise Duties]

15.4. The Committee learnt from Audit that the revenue of Rs. 1.06 crores had been forgone by Government on motor vehicles manufactured by Ashok Leyland Ltd., Madras and Hindustan Motors Ltd., Uttarpara during September, 1968 to September 1971. The Committee desired to know on what principles the rates of duties have been decided for motor vehicles in general. In a note the Ministry stated:

"In 1956 an excise duty was levied on the larger passenger motor cars while all commercial vehicles and the small and medium cars, motor cycles and scooters, were not taxed. In 1960 duty was levied "ranging up to 15 per cent *ad valorem*" on all types of motor vehicles including the chassis therefor. The tariff item as introduced in 1960 budget is reproduced below:

"27. MOTOR VEHICLES

	Rate of duty
'Motor Vehicles' means all mechanically propelled vehicles adapted for use upon roads, and includes a chassis and a trailer, but does not include a vehicle running upon fixed rails,	
(1) Autocycles, motor cycles, scooters, auto-rickshaws and any other three-wheeled motor vehicles.	Rs. 175 each
(2) Motor Vehicles of not more than 16 HP by Royal Automobile Club (RAC) rating.	Rs. 1000 each
(3) Motor Cars of more than 16 HP by Royal Automobile Club (RAC) rating, constructed or adapted to carry not more than nine-persons.	Rs. 3000 each or 15% *ad valorem* whichever is higher.

		Rate of duty
(4)	Motor vehicles, n.o.s.	Rs. 2500 each or 12½ *ad val.* whichever is higher."

It can be seen therefrom that in respect of sub-items (1) and (2) the duty was 'specific'. In respect of sub-items (3) & (4) the rate of duty was expressed in specific-*cum-ad valorem* terms. Broadly speaking, at that time, the motor vehicles that have been covered under each of Tariff sub-items (1), (2), (3) & (4) were arranged in such a way that the prices of vehicles falling under sub-items (2), (3) and (4) are progressively more than that of each preceeding sub-items. It was felt that vehicles mentioned under sub-item (1) which are used by the less affluent sections of the society should not be taxed very heavily. Not only was a lower specific rate fixed in respect of sub-item (1) but a further concession was also accorded to autocycles etc. fitted with engines not exceeding 75 cc. capacity by exempting them from duty in excess of Rs. 100 each.

In respect of motor vehicles, not otherwise specified (which was intended to cover commercial vehicles) a specific rate was fixed as a minimum coupled with an *ad valorem* levy at 12½ per cent and the vehicle had to bear the higher of the alternatives. The rationale was the fact that these vehicles would be utilised for commercial purposes and being high priced vehicles the purchasers could afford to pay reasonable quantum of duty on its price. It was clarified—within 8 days of the presentation of the budget—that body builders who build bodies on chassis cleared after payment of duty were not required to be licensed. In April, 1960 it was further explained that it was not the intention to realise duty from the body builders on converted vehicles, chassis and engines which had already been cleared from factories before 1st March, 1960".

15.5. Under the Finance Act, 1972 revised rate of Rs. 300 each or 15 per cent *ad valorem* whichever is higher has been prescribed for Motor Vehicles (not otherwise specified) classified under item 34(4) of Central Excise Tariff. However, Government by a notification issued in 1965 altered both the types of vehicles and the rates chargeable. In 1972, the Government while adopting identical

classification as the basis, fixed again the rate providing for the lower of the specific or *ad valorem* rates as shown in the following table:

Sl. No.	Description	Gross vehicles weight	Concessional rates provided under Notifications. No. 175/65 dt. 6-11-65	No. 94/72 dt. 17-3-72	
1.	'Light' fitted with petrol engine.	Not exceeding 4500 Kgs.	Rs. 1,500	Rs. 1,800	
2.	'Medium' fitted with petrol engine.	Exceeding 4500 Kgs. but not exceeding 9100 Kgs.	2,450	2,940	
3.	'Medium' fitted with diesel engine				
	(i) Hindustan . .	Do.	3,180	3,816	or 15% *ad velorem*, whichever is less.
	(ii) Fargo and dodge .	Do.	3,230	3,876	
	(iii) Others . . .	Do.	3,540	4,248	
4.	'Heavy' fitted with diesel engine.	Exceeding 9100 but not exceeding 12,250 Kgs.			
	(i) ALCO and ALCOP	Do.	4,450	5,340	
	(ii) Tata Mercedes Benz Type 1210 or Tata, Dodge/Fargo 7½ Ton chassis & Hindustan J6 series Trucks.	Do.	3,660	4,392	

15.6. The Committee pointed out that under the Finance Act, 1972 the Parliament had approved an excise duty of Rs. 3,000 each or 15 per cent *ad valorem* whichever is higher for motor vehicles (N.O.S.) under tariff item 34(4) and asked how the very base of this pattern was changed. The Secretary replied: "The main point therein was that the Government wanted to give a concession in regard to the duty; and they gave a concession in such a way that it changed the basis of the levy of duty. This was done under a mistaken impression that if the concession was given in any form, which was covered by the power to give reduced duty, that would be in order. It was only later than the Attorney-General gave a decision that Government had no power to change the basis of the levy. So, it was done in good faith." The Committee asked after the Attorney General had given his opinion that Government had no power under Rule 8 of C. E. Rules to alter the *ad valorem* rate of duty into a specific rate of *vice versa* by issue of notification why another deviation in the levy structure

was made in 1972. The witness replied: "The advice was given in February, 1970. The first notification was in 1965 and after 1970 we had undertaken a review of all similar exemptions which did not strictly conform to the advice given by the Attorney-General Review of this examination was combined with the budgetary proposals 1972 when we had to do away with the special excise duty and merge it with the basic excise duty. At that time this Notification was revised keeping in view the advice of the Attorney General and after consulting the Law Ministry we made a draft which we thought was in conformity with the Attorney General's advice. We had placed the Attorney General's advice before the Law Ministry when we drafted it (notification of 1972) and the Law Ministry cleared the notification. They were under the impression that it did conform to the Attorney General's advice but it was only later on when we referred (to Ministry of Law) as a result of the audit para that they have expressed an opinion which somewhat detracts from the position which was originally confirmed by them. Now, they have indicated that possibly some other method or revised drafting could be done." The Committee pointed out how the notification of 1972 prescribes specific or *ad valorem* rate whichever is lower while the Act provide that the higher rate should be applicable. The Chairman of the Board replied: "Because both the criteria were laid down in the tariff also—*ad valorem* as well as specific. But I certainly concede that "whichever is lower" means that you are restricting it to the specific rate. Now the Law Ministry have suggested that in order to give exemption we will have to find out some other formula which will also be within the frame work of the Attorney General's view while making exemption possible."

15.7. The Committee pointed out that computed with reference to the *ad-valorem* rate *viz.*, 12½ per cent of (being higher) the amount of revenue foregone by Government on account of clearances allowed at concessional specific rates as announced under notification No. 175|65 dated 6-11-1965 worked out to Rs. 4,31,07,702 in respect of four collectorates during the period from November, 1965 to October, 1971 (Rs. 1,05,71,731 reported in the Audit paragraph and Rs. 3,25,35,971 reported by the Accountants General subsequently). The Chairman of the Board stated: "May I say that there was no foregoing of revenues as such. Governments' intention in granting this exemption was quite clear—that they wanted to give exemption to this sector. If, in the wording of the notification, something has gone wrong, we shall certainly have that set right." When asked at what

level this decision to grant exemption on heavy vehicles was taken, the Chairman replied: "Before any exemption of any type is given, a note is usually sent to the Minister." In reply to another question whether an estimate of the financial implication involved in the exemptions was also placed before the Minister at the time of obtaining his approval for exemptions, the Chairman said, "An estimate is given and indicated in the note that goes to Finance Minister." When asked whether that was done in this case, the Chairman, replied: "This is a case relating to 1965. We will have to get hold of the file and see what was done at that stage." The Committee pointed out that Governments' decision to grant exemptions must also be in accordance with whatever has been stated in Parliament by the Finance Minister. The Committee asked whether this had been done. The Chairman replied: "That angle is entirely correct.....In so far as this particular objection is concerned, the objection arises out of the fact that although the Attorney General had stated that we should not change the mode of levying. The Audit objection is that, if we had charged the highest levy we would have had so much extra revenue. So.....if we had worded the notification and the Law Ministry had been able to so draft it that if the Attorney General's opinion was completely respected then, there would have been no objection on this ground."

In a note the Ministry stated:

> "The exact intention etc. behind issuing notification 175/65 dated 6-11-65 cannot be stated in the absence of the relevant file which is unfortunately not forthcoming despite best efforts. From the references regarding this notification of 1965, it is, however, stated that the specific rates of duty fixed in the notification related to the averages assessable values of motor vehicles prevalent during the period 1-6-64 to 31-5-65. Fixation of specific rates of duty for commercial vehicles is presumed to have been guided not so much as to fix concessional rates of duty as the administrative need to convert duty on the basis of value into specific rates for convenience of assessment.
>
> The notification 94/72 dated 17-3-72 did not stipulate any revision of rates, hitherto existing by virtue of notification 175/65 dated 6-11-65. It merely merged the special excise duty with the basic excise duty and there was no revenue implication in such a merger. This would be clear from extracts of the memorandum explaining the

provisions in the Finance Bill, 1972. There was no change in total effective rates."

15.8. The Committee were informed by the Ministry of Finance in a written reply that "the total amount of duty foregone during the year 1971-72 on account of exemptions granted under Rule 8(1) of the Central Excise Rules, 1944 is Rs. 244.84 crores and that there were 285 exemption notifications (including conditional exemptions) as in operation during 1971-72 reducing the duty rates to nil." The Committee pointed out that the revenue foregone due to grant of exemptions was a very sizeable amount and asked whether at the time of framing the budget this implication was being duly examined and whether Parliament has ever been apprised of the financial implication of these exemptions. The Secretary to the Department of Revenue and Insurance replied: "So far as the notifications in regard to the exemptions are concerned, they are already placed on the floor of the House. Now the question is whether the Finance Minister should mention in the budget speech, the total effect of the exemptions which are current during the financial year. I shall tell the Finance Minister, that this is the view expressed by the Public Accounts Committee. It is very difficult for me to express a view without knowing the opinion of the Finance Minister."

15.9. The Committee pointed out that in their 111th Report they had suggested that all operative exemptions, whether granted by notification or special orders, should be reviewed as an exercise preliminary to their rationalisation (31st Report—5th Lok Sabha) and in reply the Ministry had stated that the recommendation had been noted and instructions were being issued to undertake a review of all notifications.....with a view to bringing about rationalisation. The Committee asked whether this review had been started. The witness replied: "as a part of the Budget exercise during 1972 and 1973, we have rationalised quite a few of these notifications." The Secretary added: "We will make a review of all the exemptions that have been given and find out the reasons; if there are not sufficient reasons, we shall see what exemptions should be withdrawn."

In paragraphs 1.20 to 1.25 of their 111th Report (Fourth Lok Sabha), the Committee had dealt with the grant of exemptions by the executive through notifications and the Committee has, *inter alia*, felt that the existing position in regard to grant of exemptions by the executive through notifications or special orders left a lot to

be desired. In paragraph 1.25 (ii), the Committee had observed as follows:

> "Tariff schedules should be left to be framed by Parliament and the tendency to sub-divide the tariff through notifications should be arrested. Parliamentary control in this field is vital, as it provides an opportunity for different shades of representative opinion to influence taxation proposals. The power given to the executive to modify the effect of the statutory tariff should be regulated by well-defined criteria which should, if possible, be written into the Central Excise Bill now before Parliament."

This recommendation of the Committee had also been reiterated in paragraph 1.9, of the 31st Report (Fifth Lok Sabha) wherein the Committee had observed as follows:—

> "The Committee note from the Government's reply that an attempt would be made to work out some broad categories which would provide necessary guidelines for consideration of cases for granting exemption from duty. The Committee desire that the broad principles regulating the power of the Executive to modify the effect of the statutory tariff through notifications should be defined and incorporated in the Central Excise Bill to be introduced in Parliament."

In their Action Taken Note on paragraph 1.9 of the 31st Report (Fifth Lok Sabha), the Ministry of Finance stated as follows:

> "The question of evolving guidelines for grant of excise duty exemptions was examined in July 1969. The then Comptroller and Auditor General with whom the matter was discussed agreed with this Ministry that it was not possible to spell out any definite guidelines in law with regard to the power of exemption. If the guidelines are much too broad and couched in very general terms, the purpose which the PAC has in view may not be served; on the other hand, if the guidelines are somewhat detailed they would tend to be rigid and might create difficulty in actual practice."

15.10. The Committee deeply regret that in this case Government through an exemption notification changed the very basis of duty approved by Parliament, although Government are not em-

powered to do this. With reference to the recommendation made in paragraph 2.108 of their 72nd Report (4th Lok Sabha), the Attorney General had opined in 1970 that Government had no powers under Rule 8 of the Central Excise Rules to alter the ad valorem rate of duty into a specific rate or vice versa by issue of notification.

15.11. In the present case, the tariff rate in respect of motor vehicles under item 34 provides for levy at specific rate or ad valorem whichever is higher. As against this, the rate announced by Government vide a notification issued in 1972 under Rule 8(1) of the Central Excise Rules, provides for levy at specific rates or ad valorem. which is lower. By changing the mode of levy from higher of the two rates to lower of the two, the Government has changed the very basis laid down by Parliament.

15.12. The Committee require that action should be taken to modify the notification. The Committee desire that a review should be carried out to find out in how many cases the notifications already issued are not in conformity with the opinion of the Attorney General and necessary steps taken to rectify the position.

15.13. The Committee have been informed that the excise revenue foregone during the year 1971-72, on account of exemptions from duty granted under Rule 8(i) of the Central Excise Rules, amounted to as much as Rs. 244.84 crores and that there were 285 exemption notifications (including conditional exemptions) in operation during the year 1971-72 reducing the duty rates to nil. The Committee are concerned to note that the excise duty foregone is steadily on the increase year after year. This would indicate that at present the executive enjoys an unfettered right to grant exemptions from duty which, in the opinion of the Committee, tends to vitiate the intentions of the legislature, besides complicating the tariff and also providing an opportunity for different and sometimes dubious types of pressure groups to influence taxation proposals.

15.14. In view of the far-reaching implications of duty exemptions granted through executive notifications, the Committee, in paragraph 1.25 of their 111th Report (Fourth Lok Sabha), had inter alia, suggested that all operative exemptions, whether granted by notification or special orders, should be reviewed as an exercise preliminary to their rationalisation and the Committee had been assured by the Ministry of Finance, in the Action Taken Note, that instructions were being issued to undertake a review of all notifications. The Committee have also been informed subsequently that a review of all exemptions would be made to determine the reasons

for the exemptions and to withdraw them if they were found to be unjustified. The Committee trust that the Ministry of Finance will fulfil this assurance of theirs on a top priority basis and ensure that exemptions from duty are allowed, on a scientific basis, only when it is absolutely necessary and unavoidable. The Committee will await a further report in this regard.

15.15. The Committee had also suggeste din the same report that the power given to the executive to modify the effect of the statutory tariff should be regulated by well-defined criteria which should if possible, be written into the Central Excise Bill then before Parliament. This recommendation had also been reiterated in paragraph 1.9 of the 31st Report (Fifth Lok Sabha). The Committee have been informed by the Ministry of Finance, in the Action Taken Note, that it was not possible to spell out any definite guidelines in law with regard to the power of exemption and that if the guidelines are much too broad and couched in very general terms, the purpose which the Public Accounts Committee has in view may not be served; on the other hand, if the guidelines are somewhat detailed they would tend to be rigid and might create difficulty in actual practice. In view of the wide powers at present given to the executive to grant exemptions and as a safeguard against possible abuses of such powers, as well as the other far-reaching implications of duty exemptions, the Committee attach considerable importance to this recommendation of theirs and are unable to accept the contention of the Ministry. The Committee are of the view that it should be possible to lay down well-defined criteria to regulate the grant of exemptions. The Committee accordingly desire that this should be re-examined in detail by Government and specific guidelines prescribed in this regard.

15.16. The Committee are perturbed at prolonged indifference to their earlier findings and strongly reiterate another earlier recommendation of theirs contained in paragraph 1.13 of their 31st Report (Fifth Lok Sabha), wherein the Committee had desired that Government should obtain prior parliamentary approval at least in cases where the revenue involved by issuing notifications under Rule 8(i) of the Central Excise Rules is substantial or when the exemption notifications have a recurring effect on revenue or where the exemptions could be postponed. Keeping in view the administrative constraints in this regard, the Committee would suggest that all exemptions involving a revenue effect of Rs. 1 crore and more in each individual case should be given only with the prior approval of Parliament. In any case, the financial implications of all exemption notifications in operation should be brought specifi-

cally to the notice of Parliament by Government, at the time of presentation of the budget.

Irregular concession to the duty on refined diesel oil/furnace oil

16.1. Mineral oils and petroleum products falling under tariff items 6 to 11-A produced and utilised within the refinery premises for manufacturing other goods are wholly exempt from payment of central excise duty/additional excise duty by a notification issued in December, 1967. The exemption from duty would be admissible to refineries and other premises that are specifically declared by a Government of India order as refineries under Central Excise Rules. An oil installation in a Collectorate not declared as a refinery was, however, issued a licence to manufacture light diesel oil (falling under tariff item 9) by blending high speed diesel oil (tariff item 8) and furnace oil (tariff item 10) without payment of duty. This was irregular as the concession was applicable only to refineries. The revenue foregone by Government on account of this irregular concession was to the extent of Rs. 1,374.93 lakhs from November, 1969 to 11th July, 1971. The said oil installation has since been declared as "Refinery" (12th July, 1971).

16.2. The Ministry have replied that permission was issued to the party in response to a request made by it and to facilitate this the collector was advised to issue licence. The licence was issued on 15th September, 1969 and the place was declared as a refinery on 12th July, 1971.

[Paragraph 46 of C&AG's Report for 1971-72—Union Government (Civil), Revenue Receipts—Volume I, Indirect Taxes.]

16.3. According to Audit, Oil Installations are mere warehouses and the owner of goods in such installations may sort, pack and repack goods for sale or distribution. The owner does not have powers of blending or mixing of oils, which process constitute manufacture and require a manufacturing licence. The place for manufacture of goods has to be declared as a "refinery".

16.4. In the case reported the Government decided to declare the premises as refinery in February 1969, the manufacturing licence was issued in September, 1969, and the premises were declared as refinery only in July, 1971. During the interim period, blending operations were allowed and this was irregular.

16.5. The Committee asked why there was delay in declaring the premises as refinery. The Ministry stated that "Delay was

largely due to misplacement of file in which decision to declare the premises as refinery was taken. The delay is regretted."

16.6. When asked how blending operations were allowed prior to July, 1971 where the premises was declared as refinery, the Ministry stated that "since the Government had decided to accede to the request of the Corporation and this decision was also formally communicated to the Collector concerned on 20-2-1969, asking him to issue L-4 licence to the Marketing Installation at Sabarmati, the local officers possibly through that blending operations were permissible after issue of L-4 licence."

16.7. Explaining the circumstances that compelled the Ministry of Finance to declare this installation as refinery, the Ministry stated that, "on receipt of a representation from the Indian Oil Corporation for manufacture of Diesel Oil N.O.S. by blending non-duty paid refined Diesel oil with furnace oil at their Sabarmati Installation, the matter was examined in consultation with the Ministry of Petroleum and Chemicals who strongly recommended the proposal on the ground that it would be in the larger national interest on account of substantial saving in foreign exchange and also keeping in view the genuine difficulties of the Corporation in meeting heavy demands for Diesel oil N.O.S. in the State of Gujarat and Rajasthan, the Ministry decided to allow the facility."

16.8. The Committee are unhappy over the irregular permission granted to the Indian Oil Corporation to manufacture without payment of duty light diesel oil by blending high speed diesel oil and furnace oil without declaring the installation as "Refinery" as required under the Rules and then the delay of about two years in declaring it as "Refinery". The Committee consider that delays and mistakes of such nature are costly and should be avoided in future.

16.9. The Committee feel that the grounds on which blending operations were allowed to this oil installation, namely, that it would be in the national interest and there would be substantial savings in foreign exchange, are vague. The Committee would like to be apprised of the extent of saving in foreign exchange and also the mode of saving effected. They would also like to know whether such blending operations proved to be profitable to the Indian Oil Corporation.

16.10. Blending operations are allowed by declaring certain oil installations as refineriesG. This is apprently done under the dele-

gated executive authority. The authority delegated seems to the Committee to be unfettered in the sense that it could be used to favour any oil company or could be employed in public interest. The Committee would urge that suitable safeguards should be incorporated in the Law against the abuse of this authority.

Avoidance of Excise Duty

Audit Paragraph:

17.1. The Central Excise Tariff defines 'Motor Vehicles' as all mechanically propelled vehicles adopted for use upon roads and includes "chassis"; the assessment to central excise duty is *ad valorem*. An automobile factory was manufacturing chassis of a particular make of car and sending them out of the factory on payment of duty as 'drive away chassis'. The receiving factory built the bodies of the cars on these chassis and sold the cars without, however, being required to pay further differential duty. Fully manufactured cars would have attracted higher duty, if cleared finally from the originating factory.

17.2. By restricting the levy of duty to the chassis portion only, the department had lost revenue to the extent of Rs. 5,13,333 during the period from March, 1969 to May, 1971.

[Paragraph 47 of the Report of the Comptroller and Auditor General of India for 1971-72—Union Government (Civil)—Revenue Receipts—Volume I—Indirect Taxes relating to Union Excise Duties]

17.3. During the course of evidence the Committee asked whether Government were aware of the clearance of Drive Away Chassis before Audit pointed it out. The witness replied: "Government were not aware of it, but the local officers were clearing the chassis." The Committee enquired about the justification for restricting the excise levy on chassis part of the vehicle and exempting the body part simply because it was built elsewhere thereby depriving the Government of considerable amount of revenue. The Chairman of the Central Board of Excise and Customs explained: "The intention when this tariff item was laid, was that if somebody drives away chassis, there should be no escape from duty. That was the intention behind it, and that you need not go on pursuing with the body builders or the owners. The idea was that at a central point, you charge the duty and that is how the whole thing was framed and the tariff entry in 'motor vehicles' which was defined in preamble 34, as all mechanically propelled vehicles adopted for use upon roads and includes chassis.... Now the position is

that if a chassis has been included as a motor vehicle and is charged duty (I am not going into the question of motor cars but into the general question), if somebody builds something else on it later on it will remain a motor vehicle and we cannot charge duty for the same item for the second time. If the chassis, at any stage, is charged to duty, it cannot be subject to duty a second time after an outside agency builds upon it another structure." The Secretary to the Department added further: "Sir, the point is this.....We have taken the advice of the Law Ministry on a number of occasions and they have said that once a chassis leaves the factory and if it has paid duty then it cannot be liable to duty later on. Now the question arises like this. Supposing the chassis leaves the factory and if it goes to a body builder then is it suggested that it should pay another duty; it goes to the manufacturer for making seating arrangement, is it suggested that it should pay a duty at that stage; it goes to the electric light fitting arrangement; is it suggested that it should pay the duty. In that case, wherever it does, it will go on paying duty as a motor vehicle."

17.4. The Committee quoted the example of combustion engines and asked whether there were any cases of clearance of incomplete engines; whether in such cases engines could be completed by fitting in certain parts outside the parent factory thereby evading duty and how were such cases proposed to be avoided. In a note the Ministry stated that the reports received from the Collectors indicate that only in West Bengal Collectorate incomplete engines viz., half engines, short engines and striped engines for Ambassador cars and Hindustan Trucks are cleared by M/s. Hindustan Motors without payment of duty. Such incomplete enignes can be completed by fitting certain parts outside the parent factory. This has been noted for further examination.

17.5 The Committee pointed out that the price of complete vehicle being more than the price of chassis. The public exchequer was put to a considerable loss by charging duty on the chassis alone. The Chairman of the Board replied: "At that stage, so far as motor cars are concerned, there was no question. ThGis practice was really restricted to commercial vehicles. In most of the trucks, there is hardly anything else. But in view of this latest development, whereby cases of M/s. Hindustan Motors and one or two other companies, where they have drivenaway chassis have come into being, some thought will have to be given to reframe the entire thing. We do understand that the terminology of the tariff item, as it is, will not be enough to enable us to charge the duty". To a question as

to why immediate action was not taken to plug this loophole when the audit paragraph was sent to the Ministry in July, 1972. The Chairman replied: "It will have to be a budget exercise. It will have to be by an amendment of the Tariff. The whole thing will certainly be gone into completely." Subsequently the Ministry stated in a note that inadequacy of the terminology of tariff item No. 34 for levying duty on body/superstructure built after clearance of the chassis was felt as a result of discussion with the PAC who desired that the body builders should also be brought within the purview of levy of excise duty. This has been duly noted and the matter will be further examined."

17.6. In a further note, the Ministry stated: "It was observed that the average value appreciation in body-building was less than 25 per cent. Accordingly, as a part of 1974-Budget proposals, where the rate of duty on motor vehicles with body falling under sub-item(2) of item 34 Central Excise Tariff has been fixed at 20 per cent *ad valorem* (*vide* notification No. 47/74, CE dated 1-3-74) other vehicles (including Drive Away Chassis) falling under the same sub-item have to pay duty at the rate of duty applicable to fully assemzled vehicles. Once duty is paid at the rate of 25 per cent *ad valorem* on such chassis, there appears to be no need to bringing the body builders under excise control for levy of duty on the value of body superstructure."

17.7. The Committee enquired whether the manufacturer in this case was clearing Drive Away chassis on lower duty, building the body outside and then selling the complete vehicle in its show room charging more money including higher duty from the customers. The witness replied: "In so far as the motor cars of which chassis and body—everything—is built in the factory, of this particular unit there is no doubt that duty was being charged on the price of the car as such. The problem has arisen only in the case of those chassis which were sent outside but the contract with M/s. Hindustan Motors for an all inclusive price for a fully built up vehicle for being delivered to the customer. In such cases though initially the assessment was made on the chassis price, subsequently demands appear to have been raised. As to whether the intention of the company was to charge higher excise duty from the customer but pay only the lower duty to us, I am not in a position to categorically confirm or contradict from our records." The Chairman added further: "Whatever has come to notice so far about cars that no chassis as such have been removed and bodies built outside and the cars sold as Fiat, Land Master or Standard. Chassis of these cars have been removed now and..what is built outside is pick-up vans, station wagons or ambulances."

17.8. The Committee pointed out that in certain cases the chassis as well as the bodies were built by the same company. The Chairman replied: "Whenever they have done that, we have issued demands, but where it has been done by outsiders, we have not done so. To the extent that manufacturer themselves had placed orders for these bodies, demands have been issued. There are 65 cases of this nature." When asked what is the value of demands raised the Chairman replied: "Rs. 1,81,000". To another question whether the demands have been realised the Secretary replied: "Demands notices have been issued. They will have to pay. It is in the process of adjudication." Subsequently the Committee desired to know the latest position of show cause notice issued and the demands raised. The Ministry stated in a note that adjudication had not yet been finalised.

17.9 The Committee desired to know whether the demands raised by Government had covered the loss of revenue amounting to Rs. 5,13,333 pointed out by Audit. The Ministry stated that Show *cum*-demand notices were issued (i) on 22-7-72 for Rs. 64,821.30 & & special excise duty of Rs. 21,607.10 (ii) on 24-7-72 for Rs. 57,868.70 plus special excise duty of Rs. 19,289.57 & (iii) on 22-3-72 for Rs. 18,346.48 for the periods 23-7-71 to 8-2-72, 1-4-69 to 22-7-71 and April 1972 to March 1973. The alleged loss of Rs. 5,13,333 pointed out by the Audit is, however, not covered by these demands. Show Cause Notices have been issued only in the case of those drive-away chassis where the cost of bodies built by outside body-builders on behalf of the customers was charged by the manufacturers. In the same sale-voucher as that of the drive-away chassis. Regarding the remaining drive-away chassis, it is not possible to determine the cost of body built subsequently by the customers unless each one of the customers all over the country is contacted. The tariff definition as it stands does not permit charging of differential duty on the superstructure built subsequent to clearance of drive-away chassis on payment of duty. Further from the letter dated 13-5-73 of the Ministry of Heavy Industries, it is observed that the drive-away chassis have been treated as "Commercial Vehicles". It is a common trade practice for commercial vehicles, like trucks, that these are cleared from factories as 'Chassis' and then bodies are built subsequently according to the individual choice or requirement.

17.10. The Committee regret that the local officers who were clearing the chassis of cars did not even notice that the automobile factory (Hindustan Motors Ltd.) was not paying duty on the bodies built by outsiders on behalf of the factory, although under the contract with the customers the factory was charging price for vehicles

complete with bodies. The irregularity came to notice only when it was pointed out by Audit. The Committee note that show cause notices for demands amounting to Rs. 1,81,933 have been issued to the factory. The Committee would like to know about the recovery made by the Department in respect of those drive away chassis where the cost of bodies built by outside body builders on behalf of the customers was charged by the factory in the same voucher as that of drive-away chassis. The Committee regret to observe that this is a cunning way of cheating which must not pass muster. The Committee are amazed how the authorities failed to detect this kind of fraud.

17.11. The Committee note that after the matter was discussed by them, Government in their 1974 budget proposals, increased the rate of duty on drive away chassis by 25 per cent of the rate of duty applicable to the fully assembled vehicles. It appears strange that Government were not aware of the clearance of drive away chassis before Audit pointed it out. According to the Ministry there is no need to bring the body builders under excise control for levy of duty on the value of body superstructure. The Committee feel that necessary steps to plug the loophole should have been taken earlier after it was brought to the notice by Audi in July, 1972.

Avoidance of Duty under an Exemption Notification

Audit Paragraph:

18.1. A footwear manufacturing company gets a particular brand of footwear processed by hired labour arranged through two small firms. The components of the shoes, *viz.*, the soles and the upper portions are manufactured in the company's own factory. These are then embossed with the company's registered trade mark and sent to the two firms for processing for which they are paid labour and transportation charges. The shoes after processing are received back in the parent factory. They are duly packed in cartons bearing the company's lable and cleared from the company's factory, for sale through its retail shops.

18.2. The shoes were permitted to be removed without payment of duty, on the ground that they were manufactured in a factory having not more than 49 workers and where the power employed does not exceed 2 H.P., in terms of a notification issued in May, 1967.

18.3. As the Company gets the manufacture of shoes completed in other firms, the labour or the power consumption in such factories should also be taken into consideration before allowing the exemption notified. The exemption allowed was thus irregular. From May,

1968 to April, 1971 a total of 2,38,127 pairs of this brand of shoes valued at Rs. 36,44,444 was cleared by the factory without payment of central excise duty. At the rate of 10 per cent *ad valoram*, the duty avoided amounted to Rs. 3,64,444.

[Paragraph 48 of the Report of the Comptroller and Auditor General of India for 1971-72—Union Government (Civil)— Revenue Receipts—Vol. I—Indirect Taxes relating to Union Excise Duties.]

18.4. The Committee learnt from Audit and the Ministry of Finance that in this case the following three factors were involved in the process of manufacturing shoes:

(a) Bata Shoe Co. (P) Ltd., which is the main manufacturer, produces footwear parts complete labelled etc.

(b) M/s. Bijoy Kumar & Bros and B. P. L. Industrial Co-operative Society Ltd., each employing not more than 49 workers or consuming power more than 2 Horse Power, receive the parts and make (stitch) complete footwear: For this they receive labour charges from Bata Shoe Co., (P) Ltd.

Bata Shoe Co. (P) Ltd. receives the finished footwear, packs them and sells as their own goods under their brand. The Excise Department do not levy duty on such footwear as they contend that these footwear are manufactured by the other two small local firms which satisfy the condition of claiming complete relief from duty under exemption notification issued by the Government in 1967, by which footwear produced in a factory not employing more than 49 workers or consuming power not more than 2 Horse Power was not to pay any duty.

18.5 During the evidence the Committee were informed that duty on footwear was levied for the first time in 1954. There exemption were set out in the statute itself in 1954 and footwear included all varieties of footwear, known as shoes, boots, etc. produced in any factory wherein 50 or more workers are working on any day of the preceding 12 months. In other words the duty was confined only to those factories where the number of workers was more than 50. The Chairman of the Board stated that, "this was a very deliberate concession which was given to the small scale sector, because, so many shoes are made in the small scale sector. In fact, the Ministries concerned, especially the Commerce Ministry, at a particular stage, when this matter was taken up with them, suggested that this sort of concession ought to continue. This would give employment

in the small scale sector, where they may not have the marketing and other facilities available to them. But the notification as it was worded, applied to the factory as such. It did not apply to any one else. Now, the shoes were being manufactured in the factory and they were being delivered to Batas. So far as these leather soles and uppers are concerned, they were exempted from duty. Batas as such, were not paying any duty on them. They have gone to a factory which comes under exempted category. After the shoes were stitched they were put in boxes and were delivered to the premises of Batas. They do not come back to the Bata Factory."

18.6. In a note the Ministry stated: "after processing, the shoes are not received back in the parent factory but they are stored in the duty paid store-room attached to the factory. In the duty paid-store-room they are kept duly packed in cartons bearing the company's label and cleared from there as and when required."

18.7. The Committee desired to know who was the licensee in the Central Excise and how the factory become relevant in the context of licensee, bonds etc. The Ministry stated that, "Licensee is a person who manufactures excisable goods and holds a Central Excise licence in the appropriate form. The licence is to be obtained and the bond is to be executed normally by the person who runs the factory in which excisable goods are manufactured. Even in the case of a loan-licensee or a merchant manufacturer reference to the factory premises has to be made in the licence, bonds, etc." The Committee then enquired whether it was the factory or the owner of goods who was liable to pay duty. In a note the Ministry stated: "Excise duty is levied on the goods under section 3 of the Act and this duty liability is to be discharged at the time of removal of goods from the factory as per Rule 9 of the Central Excise Rules. The legal position, therefore, appears to be that the duty liability on the goods is to be discharged by a person who removes the goods."

18.8. The Ministry of Finance had, in the context of the draft Audit para received by them, referred the matter to the Ministry of Law on 18-4-1973. The Finance Ministry wrote as under:

> "Enquiries with the Collector of Central Excise concerned indicate that except for a short period between 24-5-1967 and 17-5-1968 M/s. Bata Shoe Co., Digha had been following the procedure indicated below for getting footwear bearing their own brand name manufactured outside their factory:

(a) M|s. Bijoy Kumar & Brothers are supplied with all materials required for manufacture of footwear including Uppers, Soles, Needles, Thread, Tissue Paper, Nails, etc. and on delivery of the completed footwear are paid Rs. 2 for per pair as labour charges. This amount of Rs. 2 per pair is inclusive of transport charges for transporting component parts of footwear supplied by M|s. Bata Shoe Co. to the premises of M|s. Bijoy Kumar & Bros. and covering transport charges of the completed pairs of footwear back to the premises of M|s. Bata Shoe Co.

(b) B.P.L. **Industrial Cooperative** Society Ltd. are supplied with various leather components only for the footwear and the other material required for completion of manufacture are provided by the B.P.L. Industrial Co-operative Society Ltd. Towards cost of other articles required, namely, thread, paper, etc., M/s. Bata Shoe Co. Pay @ Rs. 2.70 per pair as labour charges and 00.12 paise per pair towards transport charges.

Both the above firms manufacture only one brand of shoes known as 'Jalsa' brand. The completed shoes so manufactured are received direct into the premises utilised by M|s. Bata Shoe Co. The footwears got manufactured by the two outside firms do not pay duty before they are distributed by M|s. Bata Shoe Co.

The legal issue that arises is the non-payment of duty on footwears got manufactured by M|s. Bata Shoe Co. with the help of the two concerns."

The Ministry of Law opined as under on 3-8-1973:

"In the instant case, although completed footwear comes into being at the premises of the two small firms, the real manufacturer of the shoes would be the Bata Shoe Company. The ownership of the raw material and also the finished product vests in them at all relevant times. The small firms are in no different position than labour contractors who do a job of work for the Bata Shoe Co. It can very well be urged that the real manufacturer is the Bata Shoe Company for the purposes of the levy of Central Excise duty.

That, however, is not decisive of the issue as to the liability to pay Central Excise duty. The exemption notification of 26th May, 1967 exempts footwear produced in any factory wherein not more than 49 workers are working or were working on any day of the preceding 12 months or the total equivalent of power used in the process of manufacturing footwear does not exceed two horse power. Thus, the exemption has been granted with reference to the factory in which the articles have been produced and not with reference to the total number of persons employed, or power used by the manufacturer. The exemption is with reference to each individual factory of production.

In the said notification, there is no provisions for aggregating the employees in various factories owned or controlled by one manufacturer and denying exemption on the basis of such aggregation. In this view of the matter, the exemption granted would appear to be in order."

18.9. The Committee asked whether the notification of 1967 was properly drafted. Witness replied: The matter was again put up to Finance Minister seeking instructions whether any change was called for. The Minister had decided that no change was called for. The Committee asked when this matter was put up to the Finance Minister and what were his orders thereon. The Ministry stated in a note:

"No fresh orders of Finance Minister were obtained in 1967. However, Finance Minister's orders of 1955 were referred to at the time of considering the question posed by Collector of Central Excise, Patna in 1967."

18.10. The Committee asked whether this case was not a gross misuse and exploitation of exemption in the name of small-scale manufacturers. The Chairman of the Board replied: "We cannot do much unless they change the notification." When asked why the Government did not move in the matter to plug this loophole since 1967 when this case was brought to their notice by the Collector, the witness replied: "The Administrative Ministry, Ministry of Commerce and Foreign Trade had been urging that the concession should be enlarged." The Committee asked whether the Department had suggested any modification in the notification. The Chairman replied: "We have to take it up with the Commerce Ministry. They insist that so far as the small-scale industries are concerned, the position should not be disturbed." The Committee desired to know when and on what points the Ministry of Commerce

was consulted and what was their advice and whether this specific case of avoidance of duty was brought to their notice. In a written reply, the Ministry stated:

> "While the question of modification of notification 93|67, dated 26-5-1967 was under consideration of this Ministry, the Ministry of Industrial Development and Internal Trade came up with a suggestion of liberalising the existing exemption limit of 2 H.P. by raising it to 50 H.P. on 14-5-1970. In reply dated 25-7-1970 to this O.M., the Ministry brought to their notice in a general way that big manufacturers like Batas are taking undue advantage of the existing exemption and the Ministry is considering to modify the exemption in a way that big manufacturers do not continue to take undue advantage. The Ministry of Industrial Development in their U.O. dated 24-10-1972 indicated that big manufacturers like Batas are helping the small-scale units to market their production efficiently. This specific case of avoidance of duty has not, however, been brought to their notice."

18.11. The Committee desired to know the facts reported by the Collector in this case on 3-7-1967 and action taken by the Board. The Ministry stated in a note:

> "In fact due to the reimposition of Central Excise duty on footwear in 1967, a point of doubt arose about the duty liability on the footwear manufactured in factories in the exempted sector with non-dutiable component parts supplied by M/s. Bata Shoe Co. and marketed by them as their own products. The Collector made a reference to the Board on 3-7-1967 regarding duty liability and Board intimated to the Collector on 24-10-67 that in terms of Notification No. 93/67 dated 26-5-1967 as it stands, footwear manufactured by small scale units working with less than 50 workers or 2 H.P. will remain out of the purview of the duty liability even if the complete footwear made by them are on behalf of other manufacturers falling under dutiable sector."

18.12. During the evidence the Committee enquired how many manufacturers were there taking recourse to the method of getting their goods processed from outside. The Chairman replied: "I think there are three manufacturers." The Committee asked what was the *modus operandi* of these other two manufacturers. The witness replied: "It is a similar kind of getting the processing done outside."

The Committee asked when and how the Government came to know about these two manufacturers. The witness replied: "The information was collected only in connection with the Audit para. The Collectors had not informed us about other cases."

18.13. The Committee enquired whether the manufacturer referred to in the Audit paragraph was charging excise duty from the Customers on the footwear which were got stitched from outside under duty exemption. The Secretary replied: "I shall find out whether (they) have charged excise duty." Later, in a note the Ministry stated that, the factory is not charging excise duty from the customers for the shoes so cleared by them without payment of duty as verbally intimated by them to the Collector."

18.14. The Committee then enquired whether Government had at any point of time examined the production of Bata Shoe Co. (P) Ltd. and whether any fact finding had been done in this case. The Secretary replied in the negative.

18.15. The following table compiled on the basis of figures mentioned in the Audit paragraph and those furnished at the instance of the Committee by the Ministry of Finance shows the number of footwear cleared without duty, their approximate value and the amount of excise duty avoided by the 3 manufacturers of footwear during the period of 5 years from May, 1968 to April, 1973:

Name of the Manufacturer	Period	No. of footwear cleared (Pairs)	Approximate Value (Rs.)	Excise duty avoided (Rs.)
Major Manufacturers (referred to in Audit para)	May 1968 to April, 1971	2,38,127	36,44,444	3,64,444
Do.	May 1971 to April 1973	3,23,712	70,01,542	7,00,153
TOTAL	May 1968 to April 1973	5,61,839	1,06,45,986	10,64,597
Other Manufacturers I.	May 1968 to April 1973	3,96,261	40,21,679	4,02,167
II.	Do.	2,73,374	34,95,508	3,49,550
GRAND TOTAL		12,31,474	1,81,63,173	18,16,314

18.16. The Committee regret to observe that this is a clear case of abuse of the Board's notification issued in May, 1967 providing for exemption of excise duty to factories not employing more than 49 workers or consuming power not more than 2 Horse Power. The Committee find that Bata Shoe Co. (P) Ltd., the main footwear

manufacturing company got footwear processed by two small local firms coming within the exemption limit and receiving back finished goods sold them under their brand name. Bata Shoe Co. (P) Ltd. has been thus cunningly evading excise duty and cheating the exchequer. The total amount of duty avoided from May, 1968 to April, 1973 works out to Rs. 10,64,597. The Committee have been informed that two other major manufacturers are also following a similar practice, which has resulted in avoidance of duty amounting to Rs. 7,51,717 from the period May, 1968 to April, 1973.

18.17. The Committee are surprised that the Ministry of Finance did not at all bother to bring to the notice of the Ministry of Industrial Development this specific case of Bata Shoe Co. (P) Ltd. taking advantage of the exemption granted to small scale units, when the latter proposed to liberalise the existing exemption limit for small scale units from 2 H.P. to 50 H.P. The Finance Ministry had brought to the notice of the Ministry of Industrial Development only in a general way that big manufacturers were taking undue advantage of the existing exemption. The contention of the Ministry of Industrial Development that the big manufacturers are helping the small manufacturers in marketing their production efficiently is not at all correct, in this case, as the work entrusted to the small scale manufacturers manned by their own men is only a job work and the finished product is marketed in the brand name of the large scale manufacturer. It is regrettable that although the Board were made aware of the undue advantage taken by the large scale manufacturers in July, 1967, no effective action has been taken to modify the notification. The Committee desire that necessary action should be taken to fix responsibility in this case in consultation with the Central Vigilance Commission under advice to them. The Committee also desire that the question of modifying the notification suitably should at once be taken up and finalised.

Loss of revenue due to operation of time-bar*

19.1. The total amount of revenue forgone by Government due to non-issue of demands before the prescribed time limit in respect of assessments during 1971-72 was Rs. 5,53,561 as detailed below:

	No. of cases	Loss of revenue involved
		Rs.
(a) Demands not issued due to operation of time bar .	3	29,971
(b) Demands withdrawn due to operation of time bar . .	52	5,23,590

*Figures furnished by the Ministry of Finance.

19.2. In a Collectorate, a licensee, a reroller of steel products manufactured from December, 1963 a product, describing the same in the assessment documents as 'thin flats'. This was manufactured out of scrap and treating them as flats the excise department permitted the product to be removed without payment of duty. Subsequently, some time in April, 1965 the department felt that the product was not "flats" but was "strips" which were liable to a higher rate of duty. Accordingly, seven demands totalling Rs. 2,62,415 covering the period from 9th December, 1963 to 16th July, 1965 were raised. The amount of the demands was reduced to Rs. 94,315 on an order issued by the Assistant Collector in September, 1965. A fresh demand for Rs. 86,329 was issued on 8th September, 1965 covering the period 9th December, 1963 to 19th April, 1965, as the factory had paid duty of Rs. 7,986 for the period 20th April, 1965 to 16th July, 1965. The factory filed an appeal to the Collector of Central Excise against the order of the Assistant Collector, on 18th September, 1965.

19.3. In deciding the appeal the Collector of Central Excise held on 2nd December, 1970 that demands pertaining to the period from 9th December, 1963 to 7th June, 1965 were time-barred and set them aside. The duty lost on this account for the period was Rs. 62,863.

[Paragraph 49 of Audit Report for 1971-72—Union Govt. (Civil)—Revenue Receipts-Vol. I—Indirect Taxes].

19.4. The following is a comparative statement showing the amount of revenue foregone by Government owing to non-issue of demands or withdrawal of demands due to operation of time-bar during the years 1969-70 to 1972-73:

Year	Demands not issued		Demands withdrawn	
	No. of cases	Amount Rs.	No. of cases	Amount Rs.
1969-70	2	7,900	20	93,700
1970-71	8	4,96,736	37	2,21,77,910
1971-72	3	29,971	52	5,23,590

19.5. In reply to an advance questionnaire sent on the 55 cases of loss of revenue due to time-bar during the year 1971-72, the Ministry of Finance replied:

> "The figure of 55 cases relating to the demands not issued due to time bar and or withdrawn, supplied earlier to the C&AG by this Ministry was mentioned as being provisional subject to confirmation by the Collectors. The Collectors of Central Excise, Chandigarh and Delhi have since revised the number of cases reported earlier by them and the number of cases now reported comes to 42 instead of 55.
>
> The list of the 42 time-barred cases with reasons for non-issue of demands or withdrawal, as the case may be, is furnished in the enclosed statement (Reproduced in Appendix II)."

19.6. Out of the list furnished by the Ministry, the Committee desired to have details including the amount of duty involved, nature of irregularity, reason for non-detection in time and action taken against officers responsible in respect of seven cases—(1) D.C.M. Delhi; (2) B.A.S.F. (India) Ltd. Thana; (3) Chowgule & Co. (Hind) Pvt. Ltd. Thana; (4) Orient Paper Mills; (5) Mahabir Straw Board Mills Ltd.; (6) Keso Ram Cement, Basant Nagar; and (7) Gujarat Paper Mills. The details submitted by the Ministry of Finance are shown in Appendix III.

19.7. Explaining the circumstances responsible for time-bar cases and the action taken thereon, the Member of the Board said: "The time bar question comes up only when certain things happen after detection by the inspection Group and audit parties. They issue the report and the assessment unit raises the demand. Sometimes those detections have happened after one year. Whenever such cases come to notice, the Collectors do take action, call for explanation from the defaulting officer and take necessary action." The Committee pointed out that during the year 1970-71, there were 37 cases involving an amount of Rs. 222 lakhs in which demands had to be withdrawn due to operation of time bar and during the year 1971-72, there were 52 such cases involving an amount of Rs. 5.24 lakhs only. The Finance Secretary replied: "There has been a substantial improvement during 1971-72." When asked whether this improvement would be maintained, the Finance Secretary replied: "We shall certainly see that this improvement is maintained". However, Committee find that in the year 1972-73, there have been 42 cases involving an amount of Rs. 5.94 lakhs in which demands have been withdrawn as a result of operation of time-bar.

19.8. The Committee find that every year Government have been foregoing substantial amount of excise revenues on account of what

is called the operation of time bar. The amount of loss during the years 1969-70, 1970-71 and 1971-72, has been Rs. 1.02 lakhs, Rs. 226.75 lakhs and Rs. 5.54 lakhs respectively. The Committee note that there had been a substantial improvement in the position during 1971-72. They, however, regret to note that in spite of an assurance given by the Finance Secretary during the course of evidence that efforts would be made to maintain this improvement, the position is unsatisfactory even after the enhancement of the time limit from three months to one year under the Self Removal Procedure. During the subsequent year, 1972-73, there has been a loss of Rs. 5.94 lakhs on account of operation of the time bar as against Rs. 5.54 lakhs during the previous year. From a study of a few selected cases, the causes leading to such loss of revenue are human failure, laxity of staff, absence of contact with the licensees' work and failure to grasp the implications of various orders.

19.9. The Committee feel that the Government should analyse the reasons for the losses on account of operation of time-bar and the reasons for not taking timely action to issue show-cause notices/ demands. By such analysis and study it should be possible to locate areas of failure, laxity etc. and remedy the situation. The endeavour should be to avoid any amount of duty lost solely on the ground of technical lapse of time. They hope that such a study would be undertaken by the Directorate of Inspection under the Board of Excise and Customs.

Arrears of Union Excise Duties*

Audit Paragraph:

20.1. The total amount of demands outstanding without recovery on 31st March, 1971 in respect of Union Excise Duties as reported by the Ministry of Finance was Rs. 5,168.75 lakhs as given below:

Commodity	Pending for more than one year	Pending for not more than a year	Total
1	2	3	4
		(In lakhs of Rs.)	
Unmanufactured tobacco	319·63	85·65	405·28
Motor Spirit	185·66	78·29	263·95
Refined Diesel Oil and Vaporising oil . . .	74·49	163·27	237·76
Paper	52·72	21·51	74·23

*Figures furnished by the Ministry of Finance.

1	2	3	4
Rayon Yarn	16·31	1·53	17·84
Cotton Fabrics	280·16	7·13	287·29
Iron or Steel Products	513·73	274·69	788·42
Tin Plates	13·63	0·78	14·41
Refrigerating and Air Conditioning machinery	77·80	9·09	86·89
All other commodities	2,365·38	627·30	2,992·68
	3,899·51	1,269·24	5,168·75

[Paragraph 50 of the Report of the Comptroller and Auditor General of India for 1971-72—Union Government (Civil)—Revenue Receipts—Vol. I—Indirect Taxes relating to Union Excise Duties.]

20.2. The following table shows the total amount demands of Union Excise duty outstanding without recovery at the end of 1968-69, 1969-70, 1970-71 and 1971-72 and the percentage of such arrears to total union excise revenue:

Sl. No.	Name of the commodity	Arrears as on			
		31-3-1969	31-3-1970	31-3-1971	31-3-1972
				(Rs. in lakhs)	
1.	Unmanufactured Tobacco	317·51	740·15	516·88	405·28
2.	Motor Spirit	164·21	152·47	143·52	263·95
3.	Refined Diesel Oil and Vaporising oil	66·15	113·72	88·68	237·76
4.	Paper	47·12	103·58	115·83	74·23
5.	Rayon Yarn	359·03	333·49	334·62	17·84
6.	Cotton fabrics	387·86	380·82	499·82	287·02
7.	Iron & Steel Products	156·64	365·65	835·12	788·42
8.	Tin Plates	249·26	175·07	17·62	14·41
9.	Refrigerating and Air-conditioning machine	49·73	65·81	79·92	86·89
10.	All other commodities	550·36	1343·10	2597·33	2,992·68
	Total Arrears	2347·87	3773·86	5229·34	5,168·75
	Total Excise Revenue during the year	132067	152431	175855	206110
	%age of arrears to total Revenue	1·8	2·5	2·9	2·5

Source C & AG's Reports for 1968-69, 1969-70, 1970-71 and 1971-72)

20.3. The following table compiled on the basis of information furnished by the Ministry of Finance, at the instance of the Committee, shows the amount of arrears of union excise duty outstanding against the units under the control of foreign concerns.

Sl. No.	Collectorate	No. of units in arrears	Total amount outstanding	Remarks
1.	Madurai	1	65,045	
2.	Shillong	3	1,03,889	
3.	Cochin	1	5,09,597	
4.	Calcutta & Orissa	1	20	
5.	West Bengal	1	5,31,680	
6.	Ahmedabad	2	72,350	
7.	Madras	1	3,06,443	
8.	Bombay	32	2,18,97,715	
		45	2,34,86,739	

20.4. According to the list of defaulting parties furnished by the Ministry of Finance, the main defaulting parties are public sector undertakings such as Indian Oil Corporation, FACT, Always, Hindustan Steel Ltd., Madras Refineries Ltd., etc.

20.5. The Committee desired to have a list of arrears exceeding Rs. one crore under the head "All other Commodities". The Ministry furnished following details:

1.	Indian Oil Corporation– Noonmati Refineries	Rs. 5·08 crores
2.	Cochin Refineries Ltd.	Rs. 1·08 crores
3.	Bharat Earth Movers Ltd. K.G.F.	Rs. 2·83 crores
4.	Madras Refineries Ltd.	Rs. 3·60 (not being enforced)
5.	Madras Fertilisers	Rs. 4·17 (Not confirmed)

20.6. During the course of evidence the Committee pointed out that the arrears of excise duty were on the increase. They desired to know why there should be arrears at all in the case of excise duty

when an excisable commodity is supposed to have the premises of its production only after payment of duty. The Secretary to the Department of Revenue and Insurance stated that as on 31st March, 1972, "out of the total arrears of Rs. 51 crores, the demand pending for less than a year is about Rs. 12.69 crores and pending for more than one year is about Rs. 39.0 crores....Some of the arrears are due to the fact that the levy is in dispute and subject to adjudication."

20.7. Arrears in respect of excise duty on un-manufactured tobacco which is not covered under Self Removal Procedure have increased from Rs. 3.17 crores in March, 1969 to Rs. 7.40 crores, Rs. 5.16 crores and Rs. 4.05 crores in March, 1970, 1971 and 1972 respectively. The Committee desired to know the reasons for these huge arrears and concrete action taken to clear them. In a note the Ministry stated that, "broad analysis of arrears in respect of unmanufactured tobacco has revealed that accumulation takes place mainly on account of disputed assessments and the fact that there are a vast number of petty growers spread over throughout the country who grow inferior varieties of tobacco which, being a perishable commodity, deteriorates quickly and cannot, in many cases, bear the burden of excise duty. Even when such tobacco is warehoused or deposited in a Curer's Bonded Store Room it is not cleared within the prescribed time and demands have to be issued resulting in accummulation of arrears. A large number of these arrears are pending in adjudication at various levels in Courts. The Government is seized of the problem and instructions have been issued from time to time emphasising upon the field formations the need for taking vigorous steps for the liquidation of such arrears. The Collectors were also enjoined upon to send monthly reports to enable the Board to watch the progress of liquidation. Every month the arrear position in general is discussed with the Finance Secretary in the monthly meeting and further necessary directions are being issued wherever necessary.

A proposal is also under examination to make payment of duty obligatory before filling an appeal in the disputed assessments.

The reports received from the Collectors reveal that they have been putting forth earnest efforts in liquidation of arrears through certificate action under Section 11 of the Central Excises and Salt Act, 1944 and, wherever possible, through pursuasive action, expeditious disposal of disputed assessment etc."

20.8. The Committee asked the reasons for huge arrears in the case of commodities other than un-manufactured tobacco in the light of the fact that under the personal Ledger Account System, the

licensees are obliged to keep adequate credit balance for duty charges and also under the Self Removal Procedure System no goods can be removed from the factory without payment of duty. The Ministry stated in a note:

> "It is felt that the fact of maintenance of Personal Ledger Account by assessees and that no goods can be cleared under S.R.P. without payment of duty is not material to the accummulation of arrears of Central Excise Revenue. Arrears generally arise because detection of short levy/non-levy is made subsequent to clearance of goods. The question of short levy/non-levy become subject matter of disputes at various levels including courts. Unless the disputes are settled, it is not possible to realise the arrears of revenue."

20.9. The Committee enquired about the total amount of arrears outstanding from Tata Iron and Steel Co. dealing with iron and steel products. The Chairman of the Board replied: "At present, the figure stands at about Rs. 8 crores, because even during the pendency of the Court case, we are issuing the demands. These go on mounting, as clearances are going on from day to day." When asked about the reasons for such a huge amount remaining outstanding against a single party, the witness replied: "M/s. TISCO are producing a product which we call skelp, which carries a higher rate of duty than other hot roll strips. The contention of the firm is that their product is identical with such strips; and that therefore, they should not be called upon to pay a higher duty. They have gone to the court and secured a stay against the recovery of higher duty. Whereas they are paying to us the duty calculated at the rate appropriate for hot rolled strips, they have been allowed to collect from their customers the higher rate on skelp."

20.10. In a written reply, the Ministry of Finance stated the background and the present position of the case as follows:

> "On 21st May, 1964, M/s. TISCO *inter alia*, wrote to the Assistant Collector, Central Excise, Jamshedpur about the wrong classification of their product as 'Skelp'. The Asstt. Collector passed orders on 17th June, 1964 classifying the product as 'skelp'. (The party) thereupon filed an appeal under section 35 of the Central Excises and Salt Act, 1944 with the Collector of Central Excise, who rejected the same on 24th October, 1964. On 18th March, 1965 (the party) filed a Revision Application under section 36 of the afore-

said Act which was rejected by the Government of India on 18th August, 1967. Thereupon on 27th November, 1967 they filed a Misc. Petition in the Delhi High Court (Misc. Petition No. 1678/67). While admitting the petition it was ordered by the Court that the petition may be heard *at an early date.*"...The judgement was delivered on 14th December, 1973 against the Government-stating in effect that there is no difference between skelps and hot rolled strips to justify a higher rate of duty on the former manufactured by the party that on the latter manufactured among others by Rourkela."

20.11. The Committee asked whether there was any provision in Law authorising the Central Excise authorities to stay duty. The Ministry replied: "There is no such express provision. However, power to grant stay of recovery of duty is incidental or ancillary to the appellate jurisdiction of the appellate authority under the Central Excise Law." To a question whether there was any provision in the Central Excise Law for charging of interest if duty is not paid at due date at the time of clearance, the Ministry replied in the negative.

20.12. The Committee desired to know what steps the Department of Revenue had taken to recover the arrears of excise duty and whether these arrears were brought to the notice of the Ministry of Finance. The witness replied: "In all the matters concerning arrears of revenue, the Secretary (Ministry of Finance) fully discusses every month the position with Members of the Board of Central Excise and Customs. I want to tell you that out of pending amount of about Rs. 50 crores, an amount of Rs. 11 to 12 crores is such which is involved in the cases pending in the courts. Apart from this, there are cases in which appeals are pending in the Collectorates. Then, there are also cases in which decision on revision application is pending. Rest of the amount has to be collected under certificate action. I want to add that the present revenue on account of Central excise is about Rs. 2500 crores and out of this an amount of about 50 crores has to be recovered. But all this amount is not recoverable as many assessments have been disputed ones and cases are pending in the courts. It is difficult to state the number of assessments which shall be sustained. Thus, we shall be able to collect only a part of the amount out of this Rs. 50 crores....I want to tell you that only after discussing with the Finance Secretary we have reached at the conclusion that three more posts of Appellate Collectors should be created to bring down the arrears at appellate stage. Besides, a post of Joint Secretary is being created in Government of India for disposing of the revision applications. Thus we are trying that all these cases

are disposed of as expeditiously as possible....I think a big amount of arrears will be settled when the posts of Appellate Collectors are created. Besides, so far as courts are concerned, we may request for their speedy disposal."

20.13. The Committee asked whether Government had taken any action to ensure speedy disposal of cases in the courts. The witness replied: "We had tendered evidence before the Law Commission and given our suggestions. Keeping all this in view, the Law Commission has recommended in their Report that all the cases relating to customs, Income-tax and Excise take a very long time, there should be separate courts for their disposal. At present, when the case reaches the court there are new judges who take time to understand the case. Government revenue remains unrealised. They have, therefore, recommended that separate courts should be constituted to dispose of revenue and fiscal cases. If this is done, such cases shall take a shorter period for disposal.....I hope the Government will do something in this matter."

20.14. The Committee desired to know the action taken on the recommendation of the Law Commission. In a note from the Ministry of Law stated:

> *"So far as I have been able to ascertain, there is no* recommendation of the Law Commission to the effect that separate courts should be established for settling revenue and fiscal cases. However, in paragraphs 9.9 of its Forty-seventh Report on the trial and punishment of social and economic offences, the Law Commission has recommended the establishment of special courts by a comprehensive Parliamentary Law. The Report suggests that there should be special courts having a special procedure for the effective and speedy prosecution of all the economic offences under all the major Acts. Other than the wealth tax act and the income-tax act, with which the report was concerned. The other enactments which were mainly dealt with in the Report are:—
>
> (1) The Central Excises and Salt Act, 1944
> (2) The Foreign Exchange Regulation Act, 1947
> (3) The Prevention of Food Adulteration Act, 1954
> (4) The Essential Commodities Act, 1955
> (5) The Customs Act, 1962; and
> (6) The Gold Control Act, 1968.

However, these are courts for the trial of offences under certain taxation laws, and not for deciding disputes with regard to the quantum of assessment and the like. I understand that this recommendation is being examined by the Home Ministry.

It may also be mentioned that the Law Commission in its Fourteenth Report on the reform of Judicial Administration had stated that no case had been made out for the abolition of the writ jurisdiction in tax matters, though they had observed that greater care was needed in granting interim stays in such matters (Ch. 30 P. 669)."

20.15. The Committee note that the total amount of arrears of Union Excise duties stood at Rs. 51.69 crores as on 31st March, 1972 as against Rs. 52.29 crores as on 31st March, 1971. Although the amount of arrears as on 31-3-1972 are slightly less than that as on 31-3-1971, the position is far from satisfactory.

20.16. The Committee find from the list of defaulting parties furnished by the Ministry of Finance that among the main defaulters are Public Sector Undertakings such as Indian Oil Corporation, FACT, Hindustan Steel Ltd., Madras Refineries Ltd. etc. Further, out of all arrears of Rs. 29.93 crores in respect of 'all other commodities', an amount of Rs. 16.84 crores is accounted for by Public Undertakings (each owing more than Rs. one crore) viz. Indian Oil Corporation, Noonmati (Rs. 5.08 crores), Cochin Refineries (Rs. 1.08 crores), Bharat Earth Movers Ltd. (Rs. 2.83 crores), Madras Refineries Ltd. (Rs. 3.68 crores) and Madras Fertilisers (Rs. 4.17 crores). The Committee desire the Central Board of Excise and Customs to examine the reasons for non-recovery of arrears from the Public Undertakings. The reasons for non-recovery of an amount of Rs. 2.35 crores due from 45 units under the management of foreign concerns must also be seriously analysed. The Committee would like to be informed of the progress made in the recoveries immediately.

20.17. One of the reasons for accumulation of arrears is disputed assessments. The Committee have been informed that a proposal is under examination to make payment of duty obligatory before final appeal in the disputed assessments. The Committee require that the examination should be immediately expedited and the outcome reported to them. The Committee have also been informed that it is proposed to have three more appellate collectorates to bring down the arrears at appellate stage. Besides a post of Joint Secretary

is being created in the Ministry for disposing of revision applications. The Committee desire that the question of speedy disposal of disputed assessments should be constantly kept under review. They would like that the pendency of the outstanding cases is substantially reduced in the shortest possible time.

20.18. The Committee consider that some positive steps are also necessary to speed up disposal of revenue cases by courts. In a case brought to the notice of the Committee, a petition filed by a private steel manufacturing company, Tata Iron and Steel Company, in the High Court in November, 1967 against levy of higher rate of duty on skelp was finally disposed of in December 1973, i.e. after more than 6 years and after the Public Accounts Committee had made enquiries about this case and probed into (a) the reasons for the delay, and (b) the reasons for not appealing against the stay order which, in the circumstances of this case, was exploited by the company to its own advantage by collecting the duty from the customers and not paying it to Government.

20.19. While the Committee note that Government have now come forward with a proposal in the Finance Bill for the collection of the duties held back by the assessees, there is, however, no provision at present in the Central Excise Act, according to the information furnished to the Committee, for levying interest if the duty was not paid on the due date, at the time of clearance of excisable goods. The Committee feel that this is a lacuna that needs to be remedied by amending the Act. The rate of interest to be charged for the late payment of duties should be the commercial rate of interest on borrowings. Government should also examine the feasibility of making a provision in the Act for the collection of interest at commercial rates, in cases in which the recovery of duties had been stayed by courts of law, on writs filed by assessees and the cases are subsequently decided in favour of Government. The Committee consider such a provision necessary in view of the fact that in such instances, moneys that are legitimately due to the Government are available with the assessees, often for long periods, to be reinvested in their own business activities.

20.20. Instances have also come to the notice of the Committee wherein the rectification of even patent mistakes and collection of taxes and duties have been thwarted by assessees seeking legal remedies on mere technical grounds. The Committee have been informed that, with a view to ensuring speedy disposal of cases relating to economic offences, the Law Commission had recommended, in paragraph 9.9 of its 47th Report on the Trial and Punishment

of economic offences, the establishment of special courts, having a special procedure for the effective and speedy prosecution of all the economic offences under all the major Acts, by a comprehensive legislation. While the Committee would like to know the action taken by Government on this recommendation of the Law Commission they would also like Government to examine whether any amendment to the Acts governing the collection of Indirect Taxes is necessary to ensure that the rectification of patent mistakes is not frustrated by assessees on mere technical grounds. With reference to a similar recommendation made by them in relation to disputes under the Income-tax Act, in paragraph 2.30 of their 128th Report (Fifth Lok Sabha), the Committee had been informed by the Department of Revenue and Insurance that the Direct Taxes Enquiry Committee (Wanchoo Committee) had also recommended that revenue matters, in respect of which adequate remedies were provided in the respective Statutes themselves, should be excluded from the purview of Article 226 of the Constitution and that this recommendation was being examined by Government. Since this has relevance to the administration of the Acts relating to Indirect Taxes also, the Committee desire that this recommendation should also be examined by the Central Board of Excise and Customs, in close coordination with the Central Board of Direct Taxes, and necessary amendment proposed early, as such a measure would greatly facilitate the collection of revenues.

NEW DELHI;
November 27, 1975
Agrahayana 6, 1897 (*S*)

H. N. MUKERJEE,
Chairman,
Public Accounts Committee.

APPENDIX I

(*Vide* para 13·9)

Statement showing the Review of Compounded Rates of duty Canducted by the Director of Inspection

S. No.	Name of the Commodity	When was the Director of Inspection directed to conduct review of compounded rates of duty?	In how many cases has the Director of Inspection reported the review since then?	What actier has been taken on such review reported?
1	2	3	4	5
1	Plywood (course) grain plywood	7th February, 1973	Report on review received on 7-5-73.	Rates of Compounded levy doubled after review with effect from 1-8-73.
2	Cotton Yarn	25th January, 1973.	Do. 3-2-1973	The proposals are still under examination.
3.	Cotton Fabrics processed without the aid of power	23-8-73.	Do. 10-10-73	Compounded levy scheme modified with effect from 27-11-73.
4	Cotton Fabrics woven on power-looms	25-1-1973	Do. 27-12-1973	The proposals are under examination.
5	Yarn N.E.S.	27-1-1973.	Do. 21-9-73 & 19-10-73.	The proposals are to be considered along with compounded levy scheme for cotton yarn which are still under examination.
6	Embroidery	25-1-73	Do. 26-11-73 & 19-12-73.	The proposal is still under examination.
7	Khandsari Sugar . . .	Nov. 1972 & again in Aug. 73	Report since received	The proposals are being examined.
8.	Plate of Electric batteries. . .	27-1-73.	Report on review received on 19-2-73.	Report of Review indicated that no change in the rates of duty was warranted after fixation of rates by notifiction. 87/72 dated 17-9-72.

APPENDIX II

(*Vide* para 19·5)

Statement showing No of Cases Involving Demands not Issued due to Time Bar/Withdrawn

Sl. No.	Name of Collectorates	Name of the party	No. of demands		REASONS
			Not issued	With-drawn	
1	2	3	4	5	6
1	Bombay	M/s. BASF (India) Ltd., Thana	1	..	The demand could not be issued in time as the irregularity remained unnoticed till pointed out by Audit.
		M/s. Chowgule & Co. (Hind) P. Ltd., Thana.	..	2	The demands withdrawn according to the adjudication order of Assistant Collector.
2	Calcutta & Orissa . . .	Punjab Industries Calcutta.	..	1	The demand withdrawn as per Govt. of India's decision on Revision Application filed by the party.
		Orient Paper Mills, Ltd.	..	1	Instead of taking the weight on full wieghment figures of pulp, the factory paid duty on the basis of nominal weight of the centrifugals resulting in difference of weight for which demand was raised on 2-1-71 but withdrawn in June 71 as barred by limitation.
3	Kanpur	Jain Glass Works, Ferozabad.	..	1	The Audit objection against allowing breakage allowance on glass and glassware was raised after 2 years from the date of payment of duty originally assessed and as such the demand raised was barred by limitation of time.
		Paliwal Glass Works, Shikohabad	..	4	As the objection was raised by Accountant General, after a lapse of considerable time

1	2	3	4	5	6
					the demands became time barred and were withdrawn as a result of order in appeal passed by the Collector.
		Mahabir Straw Board Mills Ltd., Mainpuri.	..	1	Short assessment was due to irregular application of Slab exemption. The demand became time barred mainly on account of laxity of the local officer for which necessary action against him has since been initiated as reported by the Collector.
4	Madras	Yarn and Cloth Processing Centre, Erode.	..	1	In Government of India's decision on Revision Application the demand was withdrawn as it was hit by limitation of time.
5	Nagpur	Burhanpur Tapti Mill, Burhanpur.	1	..	The irregularity could not be detected in time by the Departmental Officers.
	Hyderabad	Kesoram Cement, Basant Nagar	1	..	A part of the demand was held to be time barred under Rule 10 by the Collector in his order in appeal.
		Govt. Glass Factory, Gudur	..	2	The under assessment was due to non-inclusion of packing charges for Glass and Glassware in the assessable value adopted for clearances during 1-3-61 to 30-9-65. These demands were set aside by Collector as Rule 10A was not applicable and the demand under Rule 10 was time barred.
		Pennar Ceramics & Genl. Industries, Nellore.	..	4	On a representation of the firm the Department held that part of the demand was barred by limitation under Rule 10.

		D. B. R. Mills, Secunderabad	2	On appeal preferred by the Mill the Collector held that the demands were time barred.
		T. I. Ltd. Secunderabad.	1	Wrong calculation of assessable value resulted in under assessment. On appeal the Collector ordered the demand to be revised which resulted in part of the demand being time barred.
		D. B. R. Mills, Secunderabad. . ..	1	Demand quashed by High Court, Andhra Pradesh.
		P. Balaji Rao & Sons.	1	The demand was set aside by the Collector as time barred.
7	Madursai	Chip Board Ltd. Rajapalayam. . ..	3	Short levy on account of incorrect tariff value furnished by the assessee came to light after expiry of prescribed period. Demands raised. On representation by the party Assistant Collector treated these demands as time barred.
8	Baroda	Gujarat Paper Mills	2	The demands were declared as time barred by the Collector in his orders in appeal.
		Denswood Pvt. Ltd. Udhana.	1	The demand was declared as time barred by the Collector in his order in appeal.
9	Poona	M/s. Deccan Paper Mills, Mundhawa ..	1	Due to wrong assessment by the assessing officer there was a short levy for which demand was issued at a later stage by the officer who succeeded previous officer but the demand became time barred by that time.

1	2	3	4	5	6
		Mominpur Society, Yoola	..	1	All the eight cases were adjudicated as time-barred.
		Handloom Weavers Co. opt Socy. Yoola.	..	1	
		Multanpura Socy. Yoola.	..	1	
		Nawapura Socy. Yoola	..	1	
		Sinor Vinakr Sah. Society Ltd., Sinnor	..	1	
		Sahashrar Jun Hatnag Vinkar Sag. Socy. Ltd. Sinnor	..	1	
		Markondaya Hatnag Sahakari Socy. Ltd. Sinnor.	..	1	
		Shahada Taluka Mandali Shahada.	..	1	
10	Allahabad	M/s. Subhash Match Industries, Doharighat.	..	1	The case was adjudicated and a demand was raised against the party for payment of differential duty. The party preferred an appeal and the Appellate Collector ordered that the duty demanded prior to 15-4-70 was barred by limitation under Rule 10 read with 173(f). This resulted in part of the demand becoming time barred.
11	Delhi	M/s. D.C.M. Mills Delhi.	..	1	Long cloth of width more than 120 C.M. at gray loom stage was decontrolled with effect from 20-12-68. In course of audit by the Internal Audit Party it was found that certain quantity of the said variety was cleared as controlled cloth during the period 21-12-68 to 20-1-69 and, accordingly a demand was raised for short assessment. On appeal, the demand was revised. The demand, was declared as time barred as per Collector's order-in-appeal.
		TOTAL	3	39 = 42	

APPENDIX III

(*Vide* para 19·6)

Statement showing details of Seven cases involving loss of duty due to time-bar

S. No.	Name of the party	Amount of CentralE xcise duty involved	Nature of irregularity in brief why it could not be/and detected in time	Action taken against officers responsible	Remarks
1	2	3	4	5	6
1	M/S. D. C. M. Delhi	Rs. 976·40	Long cloth of width more than 120 cm at grey loom stage was decontrolled w. e. f. 20-12-68. In course of Audit by the internal audit party it was found that certain quantity of the said variety was cleared by M/s D. C. M. as controlled cloth during the period 21-12-68 to 20-1-69 and accordingly a demand of Rs. 1515/60 was raised for short assessment. On appeal the demand was revised to Rs. 539·20 and declared as time-barred under rule 10 by the Collector in his order-in-appeal.	Although the Range officer should have examined the charge in definition of the long cloth, it becomes difficult sometimes to interlink instructions of this department with the orders of other departments. Having regard to the insignificant revenue involved in the instant case and as there was no suspected collusion of the departmental officers with the licensee, no action was taken by the Collector against the officers concerned.	
2	M/S BASF (India) Ltd. Thana, Bombay.	Rs. 17,485·20	M/S BASF (India) Ltd. Thana Bombay are manufacturing expandable polystyrene beads falling under item 15A. A part of the production of polystyrene beads is used by them for making 'Thermocole' and a part of its is sold to their customers at Delhi, Calcutta, Secuderabad etc. The short levy arose on account of non-inclusion of packing and handling charges in the assessable value. The whole ques-	Since the irregularity was not due to negligence or error of the officers, no action was taken by the Collector.	

1	2	3	4	5	6
			tion was originally examined by the department in 1965 when the Asstt. Collector held that the assessable value should include the above mentioned charges. However, on appeal, the Collector, set aside the Assistant Collector's order. Accordingly, the above charges were not included in the assessable values until the matter was re-examined in 1970 in pursuance of an observation by Audit party of A. G. Bombay. Show Cause Notices were issued on 25-1-71 after collecting the requisite information from the factory calling upon them to explain why the special packing charges should not be included in the assessable value. The case was decided by the Asstt. Collector on 28-1-72 ordering inclusion of the special packing charges in the assessable value, as drum packing was found to be the only mode of packing and no other packing existed. But in the meantime the demand became time barred.		
3.	M/s. Chowgule & Co. (Hind) Pvt. Ltd. Thana, Bombay.	(i) 881·86 (ii) 1822·21 Total 2704·07	M/s. Chowgule & Co., (Hind) Pvt. Ltd. are manufacturers of P or P Medinces. According to the instructions contained in F. No. 25/5/66-CX-1 dated 18th Oct. 1968, loan licensees became legal entities for all concessions under Central Excise regulations including the privilege of claiming duty free samples restricted to 5% of the clearance during the preceding month in respect of their own products. Consequently they (being principal licensees) were not eligible for the 5% duty-free	No action was taken by the Collector since the loss of revenue in the instant case was not attributable to laxity on the part of the departmental officers in taking remedial action.	

		samples on the clearances relating to the loan licensees but they continued to avail of the same benefit on the total clearances of their products as well as of the loan licencees. This was discontinued when the irregularities were pointed out by the CERA Audit, Bombay. Thereafter, two demands, as detailed above, were raised but subsequently treated as withdrawn being time barred. As the irregularity did not come to notice earlier, no action could be taken in this regard.	
4. M/s Orient Paper Mills, Brajrajnagar.	Rs. 125·53	The demand was raised on 2-1-71 for recovery of differential duty amounting to Rs. 125·53 from the party since they paid duty at the time of first assessment on the basis of nominal weight of the centrifugals instead of taking the weight on full weighment figures of pulp. The demand was raised on 2-1-71 but withdrawn in June being time barred as the original demand was raised on 3-1-66.	Since it was a simple human failure and the amount was insignificant no action was taken against the officers responsible.
5. M/s. Mahabir Straw Board Mills Ltd. Mainpuri (Kanpur Collectorate)	Rs. 52,093·50	The short assessment on Straw and Mill Board due to irregular application of slab exemption was pointed out by the Audit. A show cause notice was issued on 7-11-69 against the party for differential duty of Rs. 52093·50 for the period May 66 to March 67 but the show cause notice was withdrawn on 10-9-71 as the demand was time barred. The demand become time barred mainly on account of laxity of the legal officer.	Necessary action against the concerned erring officer has since been initiated by the Collector and the matter is being expedited.
6. M/s. Gujarat Paper Ltd., Barojadi. (Baroda Collectorate)	(i) 10,629·12 (ii) 6,377·47 Total 17,006·59	(i) M/s. Gujarat Paper Mills Ltd. manufactured printing and writing paper of a substance not exceeding 75 gms. per square metre making use of pulp/rags.	

1	2	3	4	5	6
			In view of the declaration made in the respective A.R.Is, giving them tl e benefit of exemption under Notification No. 162/65, dt. 1-10-1965 was not in order. In spite of that the proper officer assessed the paper covered under these A.R.Is to duty giving them the benefit of the exemption under the above notification. The show - cause notice-*cum*-demand for differential duty of Rs. 10,629·12 for the period from 2-10-65 to 4-10-65 was raised on 25-7-66. Asstt. Collector, Viramgam issued a fresh show cause-notice-*cum*-demand to the party on 3-8-67 since the unit was at that point of time tagged on to his jurisdiction. The party preferred an appeal to the Collector, Baroda who decided the appeal setting aside the order of Asstt. Collector and the demands were withdrawn being declared time barred.	The question of disciplinary action is still under examination.	
			(ii) The Collector of Central Excise has reported that the benefit of the exemption under notification No. 83/65, dated 11-5-65 was not admissible since the party declared, in the respective A.R.Is the product as printing and writing paper of substance not exceeding 75 gms. per square metre containing *inter-alia*, in its substance 40 per cent or more of jute, straw etc. in the form of pulp and also contained rags in the form of pulp. But the proper officer granted the benefit of exemption at the time of assessing the goods in question. The demand for		

			Rs. 6,377·47 was raised against the party for the period from 2-10-65 to 4-10-65 on 24-7-67 and the same was confirmed by Asstt. Collector on 3-8-68. The party preferred an appeal to the Collector who decided the case under rule 10 and declared the demand as time barred. The demand was withdrawn on 1-2-71.	
7	M/s. Kesoram Cement Basant Nagar, (Hyderabad Collectorate)	Rs. 37,165·61	The Audit pointed out in May 1971 that there was an under-assessment of Rs. 51,023·36 on Cement in M/s. Kesoram Cement, Basant Nagar during the period 1-3-69 to 31-3-71 that rebate admissible to Govt. Department was wrongly extended to Public Sector Undertakings and Non-Govt. bodies. Out of this the amount of Rs. 38,545·39 was recovered from the factory and the balance of Rs. 12,477·97 was held to be time-barred under Rule 10 by the Collector on appeal filed by the party.	
			On thorough examination of the issue it transpired that the net loss amounts to Rs. 37,165·61 as under:—	
			(i) Amount refunded on account of order in Appeal by Collector	Rs. 17,930·34
			(ii) Demands raised for the quantity of cement supplied during August, 1969 to August, 1970 to Non-Govt. bodies at contract prices—demands not sustained on account of time bar.	Rs. 19,235·27
			TOTAL	Rs. 37,165·61

1	2	3	4	5	6
			2. The Ministry's orders dated 23-7-69 it was clarified that it was permissible to allow rebate, discount or commission in the prices of cement sold to Govt. through D. G. S. & D. The main reason for the claims to have become time- barred was the wrong interpretation by the local staff of the word *"GOVERNMENT"* so as to include public sector undertakings and local bodies. There was some doubt about the interpretation and the Govt. after consulting the Ministry of Law clarified on 21-8-70 that Public Sector Undertakings were not eligible for the said concession. This advice was passed on to the lower formations and was received by the Asstt. Collector concerned on 18-7-1970. Thereafter there was some correspondence between the local staff and the Asstt. Collector issued orders at three different times on 8-12-70, 11-1-71 and 9-3-71 to raise demands for sales :— (i) To Public Sector Undertakings; (ii) Autonomous Bodies; and (iii) On the refunds granted erroneously.	The question of disciplinary action is still under examination.	

APPENDIX IV

Summary of main conclusions|recommendations

Sl. No.	Para No.	Ministry concerned	Recommendations
1	2	3	4
1	1.14	Ministry of Finance (Department of Revenue & Insurance)	The Committee note that the number of exciseable commodities increased from 69 in 1967-68 to 116 in 1971-72 and 118 in 1972-73. Out of 116 commodities under excise control during 1971-72, 6 commodities yielded revenue of more than Rs. 30 crores each. The amount of revenue yielded by these commodities was Rs. 1594 crores which constituted about 77 per cent of total receipts from Union Excise Duties (Rs. 2061 crores). During the year 1972-73, out of 118 exciseable commodities, 20 commodities yielding more than Rs. 30 crores each accounted for revenue of Rs. 1900 crores out of the total gross revenue of Rs. 2373 crores; which works out to 80 per cent.
2	1.15	—Do—	During the year 1971-72 there were 35 exciseable commodities which yielded revenue less than Rs. 1 crore each, the total amount of revenue being only Rs. 10.53 crores. Out of these, 28 commodities yielded less than Rs. 50 lakhs each, the total revenue being Rs. 5.40 crores. Again during the year 1972-73, there were 34 exciseable commodities which yielded less than Rs. 1 crore each, the total revenue realised being Rs. 11.65 crores. Out of these, 26 commodities yield-

1	2	3	4
			ed less than Rs. 50 lakhs each, the total revenue amounting to Rs. 5.87 crores. The Committee were also informed that out of 24,193 licensed factories, about 15,243 factories account for a revenue of Rs. 7.44 crores amounting to 0.37 per cent of the total receipts.
3	1.16	Ministry of Finance (Department of Revenue & Insurance)	In paragraph 1.9 of their 44th Report (1971-72), the Committee had observed that taxing commodities which yield less than Rs. 50 lakhs a year particularly those produced by small units dispersed throughout the country was not worthwhile as they would involve disproportionate cost of collection. The Committee also suggested in paragraph 1.8 of their 83rd Action Taken Report (1972-73) that the cost of collection of duties on commodities yielding low revenue that are produced by a large number of small units should be computed on some feasible basis, so that it could be decided whether it was worthwhile taxing them. During evidence, the Finance Secretary agreed that a review was needed in respect of those commodities where the excise yield was much less compared to the number of factories which were involved and the effort that the Department had to make. This review is proposed to be taken by the Department after taking into account the recommendations of the Self Removal Procedure Review Committee which are now available. The futility of taxing commodities produced by small units dispersed throughout the country which do not yield substantial revenue but involve disproportionate cost of collection has thus been engaging

			the attention of the Committee since 1971-72, but it is regrettable that this question has yet to be reviewed by Government. The Committee are anxious that Government seriously examines this long pending issue and reach expeditiously a policy decision which will tone up the country's financial position.
4	2.16	—Do—	The Committee take a very serious view of Ashok Leyland Ltd., removing motor vehicles without intimating the revised prices and getting the approval of the Excise Department, as required under the rules. Considering the gravity of the offence and the amount of duty involved (Rs. 2,78,635), the Committee fear that the imposition of a paltry penalty of Rs. 100 only was a mere eyewash and the authority was apparently more concerned to help the evader Ashok Leyland Ltd., rather than to safeguard Government's vital interest. The Committee deprecate the inordinate delay in completing the assessment documents and raising the demand and desire that responsibility should be fixed for penal action under advice to the Committee.
5	2.17	—Do—	The Committee note that as a result of special audit of the factory conducted in January, 1973, three offence cases have been registered against the same company (Ashok Leyland Ltd.) and short levy of duty amounting to Rs. 11.07* lakhs has been recovered in one case which is under adjudication. Two other cases—one regarding manufacture of tie-rod ends without licence for two years and evading duty amounting to Rs. 26,235 and the second one regarding clearance

*On further scrutiny the demand on account of short levy had been revised to Rs. 12.52 lakhs.

1	2	3	4
			of motor vehicles in a manner not provided in the L-6 licence taken out by the firm for availing of the exemption contemplated in Notification No. 101/71 of 1971 and involving duty amounting to Rs. 2.46 lakhs—are also under adjudication. The Committee would like to know the outcome of the cases immediately. The Committee desire that this case should be investigated by the Central Vigilance Commission and responsibility fixed for any failure on the part of the Excise officers and penal action taken. The outcome of the investigations and the action taken thereon should be conveyed without delay to the Committee.
6	2.18	Ministry of Finance (Department of Revenue & Insurance)	There seems to be something basically wrong with the present system of check followed by the Department which allows evasion of duty going unnoticed over a long time. As the Committee are deeply disturbed about this, they would ask Government in all seriousness to tighten up the checks appropriately forthwith and report to them in detail. The delinquent officials also should be handled firmly.
7	2.29	—Do—	The Committee regret to observe that this is yet another clear case of evasion of Excise duty by the same Company, *viz.*, Ashok Leyland Ltd. The Company failed to inform the Excise Department about the extra price charged by them for the motor vehicles fitted with special type of tyres, *i.e.*, the difference between the approved

			assessable value of vehicles fitted with standard type of tyres and the price actually charged after fitting special tyres desired by the customers. The difference in prices ranged from Rs. 314 to Rs. 6,407 for each vehicle. This resulted in under-assessment of duty to the extent of Rs. 22,996 for the period from 1st October, 1969 to 16th December, 1970. The factory did not also produce to the Inspection Group the supplementary invoices issued by them for the extra price charged to customers. The Committee understand that the question of levy of penalty on the factory was at one time under examination. The Committee require that action should be taken without further delay and an intimation sent to the Committee immediately. They would also like to know the particulars of under-assessment for the periods prior to October, 1969 and subsequent to December, 1970 as well as the action taken for the recovery thereof and the levy of penalty. The Committee also desire that responsibility for the lapse should be fixed under advice to the Committee.
8	2.30	—Do—	It is distressing that although the Inspection Group of Department visited the factory twice during the material period (July, 1970 and December, 1970) they failed to notice the irregularity by checking the invoices in the Sales Section. Disciplinary action against the concerned officers is stated to be in progress. The Committee would like immediate information about the action taken against the officers concerned.
9	2.31	—Do—	The Committee have been informed that the raw materials specified for motor vehicles are engine blocks and the Inspection Group

1	2	3	4
			verified the raw materials account with reference to daily manufacturing report and daily engine output statements. But neither the Inspection Group nor the Internal Audit Party checked the stocks of tyres of different specifications held by the factory. The Committee do not at all appreciate such a routine approach. In view of the fact that tyres form an important component of motor vehicles it is surprising why it was not considered necessary (if it was not done wilfully) by the Inspection Group/Internal Audit Party to check the stocks of tyres. The Committee desire that suitable directions should be issued by the Board for checking of other raw materials besides principal raw materials for future guidance of all concerned, so that under-valuation of assessable value can be located and action taken to fix the correct assessable value and penalise delinquent assessees.
10	2.32	Ministry of Finance (Department of Revenue & Insurance)	The Committee understand that at present in the gate passes which are used under the S.R.P., there is no provision to show both the real value and invoice value. The Committee suggest that Board may examine whether the form of gate pass needs any modification so that under-assessment of the type indulged in the present case could be more easily detected by the assessing officer and suitable action taken against the party at fault, without delay.
11	3.12	—Do—	The Committee note that in this case relating to Aluminium Corporation of India Ltd., Calcutta there was delay of 1½ months in issuing clarificatory instructions by the Board after the issue of

			the exemption notification of May, 1971 exempting aluminium from the amount of duty calculated on the value of Rs. 1,257 per metric tonne subject to certain conditions. The Committee desire that in complicated matters such instructions should be issued by the Board along with the notification or soon thereafter. In the present case the short levy (Rs. 1,36,220) could have been avoided if the instructions were issued in the month of May 1971 itself. It is regrettable that there was also considerable delay on the part of the Range officer in checking the R.T. returns of the assessee (Aluminium Corporation of India Ltd.) for the period May 1971 to August 1971. The Committee desire that officials responsible should be warned.
12	3.13	—Do—	The Committee note that in another case of similar under-assessment in regard to Madras Aluminium Co. Ltd. in the Madras Collectorate the decision of the Appellate Collector is under review by the Reviewing Authority. The Committee would like to be informed of the result of the review as soon as it is completed.
13	3.14	—Do—	The Committee find that the concession given by the Board in May 1971 applied to two smaller manufacturers of Aluminium goods, *viz.*, Aluminium Corporation of India Ltd. and Madras Aluminium Co. Ltd. out of four in the country and that given in October 1971 applied to only one manufacturer, Aluminium Corporation of India Ltd. This appears rather haphazard. The Committee do not favour grant of exemption under Rule 8(1) of the Central Excise Rules 1944 virtually in favour of individual units. The Committee would like Government to examine the matter in all its ramifications and

1	2	3	4
			inform them of the policy to be followed firmly in future. In any event, any concession which partakes of the nature of a subsidy should not be given in the camouflaged fashion of taxation exemption.
14	3.22	Ministry of Finance (Department of Revenue & Insurance)	The Committee are surprised at the helplessness pleaded by the Government in the wake of dilatory tactics adopted by the licensees in producing information required for assessment of excise duty. It took the Excise Department more than two years to recover an amount of Rs. 51,622 after Audit pointed out the under-assessment on adding machines and calculators produced in a factory of Facit Asia Ltd., Madras. The Committee have informed that the assessment in the case was initially made provisional, but the same could not be finalised early because the licensee took about one year and three months in producing the invoices and other particulars for finalisation of prices and these dilatory tactics were to a great extent responsible for the delay.
15	3.23	—Do—	The Committee note that in pursuance of their earlier recommendation made in their 44th Report (Fifth Lok Sabha) in regard to fixing of some time limit for finalisation of provisional assessments, the Government have issued instructions in August, 1973 that in case the licensee failed to submit necessary documents relevant to the finalisation of prices within a reasonable period, say

			a month or so, the benefit of lower provisional assessment could be denied to him. The Committee hope that with the issue of these instructions, such delays and lapses would be avoided in future. The Committee would like to watch the progress of finalisation of provisional assessments through future Audit Reports.
16	3.24	—Do—	The Committee also note that in this case, the departmental officers were also responsible for delay in the finalisation of provisional assessment, which is being looked into. The Committee hope that adequate steps would be taken to fix responsibility.
17	4.10	—Do—	The Committee view with concern the failure and delay in raising demands for differential duty on storage batteries cleared by a manufacturer (Amco Batteries Ltd., Bangalore) who was revising the prices retrospectively by issuing supplementary invoices to the customer under a price escalation clause of the contract providing for revision of price due to increase in the price of raw material used in its manufacture. Although Amco Batteries Ltd. was submitting the revised price lists to the Excise Department, the latter failed to raise additional demands. It was only when the Departmental Inspection Group pointed out the omission in January, that the Department issued two demands in May, 1971 and when Audit pointed out the same omission in July, 1971, the Department raised the entire differential demands amounting to Rs. 57,784, covering the period upto the 13th August, 1971, in February 1972. The time taken in issuing demands ranged between 6 to 18 months after the approval of revised price lists in spite of the fact that the remarks

1	2	3	4
			of the Assistant Collector for action on top priority basis on the inspection note of the Inspection Group were communicated to the Range Officer. The Committee note that the Collector is already looking into the question of fixing responsibility for these lapses. The Committee would like to know the outcome of the investigations by the Collector and the action taken thereon.
18	4.11	Ministry of Finance (Department of Revenue & Insurance)	The Committee have been informed that price escalation clause is provided by the manufacturers to safeguard against price increase in raw materials especially in rate contracts with D.G.S. & D., Railways, State Transport Undertakings etc. The system of supplementary invoices due to price variation clause have been reported in the case of metal containers and electric wires and cables. The Committee note that instructions have been issued in September, 1973 to assess such clearances under price escalation contracts, provisionally. They hope that this procedure is being followed in respect of all commodities and all manufacturers following price escalation contracts.
19	5.15	—Do—	The Committee note that according to the notification issued on 11th December, 1970 water coolers of capacity exceeding 200 litres per hour were required to be assessed on the basis of their wholesale price and not tariff value. A factory (Blue Star Industries Ltd., Thana), manufacturing water coolers of storage capacity exceeding

			200 litres per hour declared the prices of such coolers which were equal to the prices worked out on the basis of tariff values. The price lists filed by the factory on 15-5-71 and 31-7-1971 were approved by the Assessing Officer on 12-8-1971 and 8-11-1971 evidently without any scrutiny. This resulted in under-assessment of duty amounting to Rs. 65.158. According to the Ministry the prices were to be subsequently checked by the officer, but this could not be done because of the heavy Budget work of 1971. It has been also stated that although there is no statutory time-limit for verification of the prices, verification of prices is invariably undertaken within a period of one year from the effective date of price list, because one year is the time limit prescribed under Rule 10 read with Rule 173J for issuing show cause notices for short levy. The Committee are unable to accept this explanation. According to the departmental procedure if the assessable values are to be approved finally, verification of the invoices should precede the final approval of the prices. If there was some difficulty in verifying the invoices, the assessments should have been made provisionally. In either case the limit of one year does not come in the picture. The Committee, therefore, require that it should be investigated why in this case the assessment was not made provisionally, if the assessing officer really wanted to verify the prices later and that suitable action be taken against him for the failure.
20	5.16	—Do—	Incidentally, the Committee understand that prior to 11-12-1970 tariff values were applicable to water coolers exceeding a capacity of 200 litres per hour. In view of wide disparity between the tariff

1	2	3	4
			value (Rs. 6495) and the real value (Rs. 11,266) for a cooler of 368 litres capacity, the Committee would like to know how the tariff values were fixed for coolers of larger capacity, prior to 11-12-1970. This is necessary because the low tariff values applicable to the earlier period must have resulted in a substantial loss of revenue. The Ministry should explain this to the Committee.
21	5.17	Ministry of Finance (Department of Revenue & Insurance)	Another disturbing factor is the inordinate delay of 2½ years in revising the tariff values of refrigerators, water coolers and air-conditioners fixed in December, 1970. This delay also must have certainly caused loss of revenue prior to July, 1973 as the extent of increase in tariff values given effect to from July, 1973 ranged from 25 to 50 per cent. It is deplorable that the decision of Government in 1967 to review once a year tariff values of all commodities has not been followed. The Committee require that the position in this regard should be examined forthwith and a detailed report given to them regarding the review of tariff values of all commodities which were fixed more than a year ago. The Committee attach particular importance to this suggestion in view of the urgency to guard against loss of excise revenue in the context of present rising trend in prices. This lapse has caused a big loss of revenue. It is, therefore, necessary that the identity is established of the officials who were responsible from the higher echelons so that suitable action could be taken against them.

22	6.11	—Do.—	In this case, a yarn classifiable under tariff item 18, and chargeable to duty @Rs. 4.50 per kms. plus 33.1/3% special excise duty as charged to lower rate of duty @ 60 paise per kms. plus 33 1/3% special excise duty due to incorrect declaration given by the manufacturer, D.M. Woollen Mills Ltd., Indore. When this came to light as a result of testing of samples by the Chemical Examiner, the Excise Department issued show cause notice for demands of differential duty in respect of the production of particular lot from which samples were drawn instead of the entire quantity manufactured from the date the samples were drawn as provided in the instructions of the Board, thus resulting in under-assessment of duty amounting to Rs. 1.03 lakhs. It is also surprising that the manufacturer who ought to have known that the claim for retest could be made only within a period of one month was allowed by the Department to make the application after the expiry of one month. The Committee desire that responsibility should be fixed for these lapses.
23	6.12	—Do.—	The Committee notice that although departmental instructions issued by the Board provide that the requests for re-testing of samples by the Chief Chemist could be entertained only if such requests were made by the manufacturer within one month from the date of receipt of the analytical report of the Chemical Examiner by him, the Excise Department had entertained the requests for re-test made after the prescribed time limit. The Government have justified this action *inter alia* on the ground that although the time limit is prescribed in the departmental instructions, there is no such provision in the Central Excise law that the request for re-test

1	2	3	4
			should come within a month of receiving the test report. These arguments, it is feared, are fallacious. If testing and re-testing are being done under executive instructions, these instructions issued by the Board are binding upon the officers of the Department and also on the assessees who are, admittedly, working under the SRP system. If, on the other hand, the Government's case is that its own instructions have no binding force, it would lead to the extra-ordinary situation of the very tests by the Government chemist being challenged as illegal. The Committee hope that this is not the intention. In any event, if the Government feels that there should be a statutory provision to safeguard the validity of such tests, the Committee would suggest that Government should arm itself with appropriate legal provisions.
24	6.13	Ministry of Finance (Department of Revenue & Insurance)	The Committee have been informed that the demands of differential duty have not been realised so far as the party has gone in appeal to the Appellate Collector. The Committee would like to be informed of the outcome of the appeal.
25	6.27	—Do.—	The Committee are extremely disturbed to note that misclassification of resins relating to one factory (M/s. Chougule & Co.) alone resulted in short-levy of Rs. 27.72 lakhs. It is indeed very surprising that no instructions on the scope of the two types of resins were issued by the Ministry in 1965 at the time of the issue of the notification. This is a serious lapse. According to the Minis-

			try, this is probably because the Government was aware at that time that the trade recognised and distinguished between alkyd and maleic resins for commercial purposes. The Committee do not accept this but feel that the field formations should not have been left to form their own conclusions or judgements in respect of the variety of resin to which a particular product belongs. This gives rise inevitably to loss of revenue and corruption. It would be of interest to see how far the correct classification was followed in respect of other factories in the Collectorate concerned and in other Collectorates. The Committee would await a report regarding the total short levy of exicse duty and the action taken to recover the amount.
26	6.28	—Do—	In this connection the Committee would also like Government to examine the justification for prescribing different rates of duty for resins and exempting the alkyd resins from duty.
27	6.29	—Do—	It is distressing that the Deputy Chief Chemist came to the conclusion in October 1965 and November 1967 that the resins manufactured by M/s. Chougule & Co. in this were alkyd resins. It gives rise to suspicion why the Deputy Chief Chemist gave his opinion without calling for any information on the inputs and the background of the case. The Committee are anxious that departmental Chemists should be careful in analysing the products referred to them for which they have to shoulder full responsibility. It should also be ensured that all the laboratories of the Customs Department have up-to-date equipment and reference books.

1	2	3	4
28	6.30	Ministry of Finance (Department of Revenue & Insurance)	The Committee would like to know the outcome of the appeal which is pending with the appellate collector in this case and the recovery of the amount which has been stayed till the decision on the appeal.
29	7.7	—Do.—	The Committee regret to point out the following lapses in this case of under-assessment in the factories of Ballarpur Paper Co. and Orient Paper Mills Ltd:— (i) The Collector took no action on the instructions issued by the Central Board of Excise and Customs on 27th July, 1970 that in case where container and contents were liable to duty separately under different tariff items and sub-items of the same tariff, they should be assessed separately at the rates appropriate to each. Wrapping paper and wrapped paper continued to be assessed at the rate applicable to the wrapped paper under earlier instructions of 1955, although wrapping paper was assessable at a higher rate. It was only on receipt of an Audit objection that the Collector belatedly referred the matter to the Board for clarification in December, 1970. (ii) The instructions issued by the Board on 27-7-1970 were defective inasmuch as it was not clarified that the previous instructions were superseded. The Central Board

			of Excise and Customs took as long as 11 months for reasons best known to them to issue the clarification sought by the Collector. The clarification was issued on 22nd November, 1971.
			(iii) Even after receipt of the Board's clarification dated 22-11-1971, the Collector did not implement the instructions till July 1972. Surprisingly he referred the matter to other Collectors for consultation which resulted in further delay of 8 months. The Committee deprecate this and recommend suitable action against those whose actions have resulted in loss of revenue.
30	7.8	—Do—	The Committee require that necessary steps must be taken to ensure that instructions of the Board are precise and that they are implemented by the field officers promptly, within a specified time limit. It is necessary because confusion created in the case under examination by the Committee has resulted in under-assessments in 14 Collectorates involving a huge amount of Rs. 42.46 lakhs besides the under-assessment of Rs. 8.76 lakhs pointed out by Audit in the two cases relating to Ballarpur Paper Co. and Orient Paper Mills Ltd. The Committee would incidentally like to know the amount actually recovered in all these cases and that which has become time barred. They would also like to know the action taken for the lapses, which obviously have occurred, on the part of the departmental officers.

1	2	3	4
31	8.9	Ministry of Finance (Department of Revenue & Insurance)	The Committee are distressed over the manner in which azure-laid paper classified and marketed in trade circles as coloured variety of paper and confirmed as such by chemical tests, was declared to be tinted variety of paper eligible for concessional rate of duty by a notification dated the 1st March, 1968. This sort of classification was destined to create confusion and admittedly different collectorates assessed it differently, some as tinted variety at concessional rates and the others as coloured variety at higher rate of duty. Ultimately, when the assessing officers experienced difficulty in making distinction between coloured and tinted varieties, the Government woke up to the reality and amended the earlier notification by including azure-laid paper in coloured variety assessable at a higher rate of duty but by then the public exchequer had lost revenue to the tune of Rs. 14.40 lakhs in the factories of Titagarh Paper Mills, Bengal Paper Mills, Indian Paper Pulp and Andhra Pradesh Paper Mills in only four collectorates. The Committee deprecate the tendency to provide concessions by way of exemptions in duty without knowing the practical difficulties and without laying down proper guidelines to the field staff. They would suggest to the Government to desist from laying down preferential rates of duty when the commodities entitled to such concessions are not clearly identifiable.
32	8.10	—Do—	Even the D.G.T.D. failed to lay down a precise criterion for distinguishing tinted variety from other coloured varieties for the purpose of applying concessional rate of duty. In spite of all this,

			as also of the fact that azure-laid paper was being known by different names including that of the coloured variety in the market, the D.G.T.D. continued to hold that it was only the tinted variety. This is deplorable.
33	8.11	—Do—	Grant of concessional rate of duty on azure-laid paper without proper thought resulted in different practices being followed in different collectorates. In many cases, duty was charged at higher rates but subsequently refunds were granted to the assessees....It was not possible to verify whether in all such cases the benefit of refund was passed on to the consumers. In one case the assessee even refused to disclose whether or not he had passed on the benefit of refund to the consumers. In another case the factory charged higher rate of duty from customers though it had itself paid at concessional rate. The Committee hope that at least the Income Tax Department has been informed about the fortuitous benefits to such parties.
34	9.15	—Do—	The Committee feel concerned over the failure of the Excise Department in not locating for five years a factory [Rexor (India) Ltd., Calcutta] producing metallic yarn without a central excise licence. The factory had been producing excisable metallic yarn since November 1965 and it was only in October 1970 that it was brought under the Central Excise net. The Committee are not satisfied with the explanation given for this failure that the action taken to loate the factory producing metallic yarn after issue of tariff advice regarding excisability of such yarn in June, 1969 could not be

1	2	3	4
			gathered because the file relating to the transfer of work from one division to another in the same collectorate was not readily available and that prior to the issue of tariff notification in June, 1969, the question of locating the factory did not arise. As admitted by the Member of the Board, the Excise officials were wrong in not having brought the factory under licensing control before June 1969. Even if it was felt that metallic yarn was not liable to duty, it would have, in any case, fallen under the category of plastics and thus become liable to excise control. No explanation has, however, been given for the failure to locate the factory prior to June 1969. Nor has it been explained as to why the preventive officers failed to locate the defaulting factory and book a case against it. This needs a thorough investigation.
35	9.16	Ministry of Finance (Department of Revenue & Insurance.)	The Committee also find that in some other cases also the units were licensed after a gap of one to three years after they started production of metallic yarn. The Committee fail to appreciate why the units could not be located in time. There appears to be a clear failure on the part of the preventive Branch of the Excise Department. Incidentally, the Committee find that during the course of six years ending 1972, the Excise Department have detected only 4579 cases of production without excise licence against 9,00,553 voluntary applications received for licenses during the same period. The Committee are not satisfied with this performance. They would

			like the Government to investigate this aspect and tighten up their machinery which is an essential limb to control and prevent leakage of revenue.
36	9.17	—Do—	Another disquieting feature revealed in this case is the system adopted for locating factories producing excisable goods. The Committee view with uneasiness the fact that the Central Board of Excise and Customs does not get to know when a factory is licensed for production. In a reasonable set-up, this should be automatically known to the relevant authorities. It is strange that one wing of the Government concerned with commodity taxation does not know when a factory is licensed by another wing, namely the Ministry of Industries. The D.G.T. & D. does not consider whether the goods produced by a factory are excisable or not before licensing it. As admitted by the Finance Secretary the whole procedure for locating factories producing excisable goods has not been systematized. The Committee desire that a better coordination should prevail between the different wings of the Government. They also desire that the scope of local enquiry for locating the excisable units should be widened to cover the information available with State Industries Departments, Corporations, Municipalities, etc. dealing with the promotion or licensing of Industries.
37	9.18	—Do—	The Committee are not happy over the time taken by the Board in issuing clarifications. After receiving the representation from the Gujarat Chamber of Commerce in May, 1968, regarding excisability of metallic yarn, the Board issued clarification in June, 1969,

1	2	3	4
			after more than a year. The Committee hope that the Board will shed such procrastination and try to set an example of efficiency and promptness for the lower formations.
38	9.19	Ministry of Finance (Department of Revenue & Insurance)	The Committee would like to await the final outcome of the appeal filed by the Government in the Supreme Court in regard to levy on metallic yarn.
39	10.14	—Do—	The Committee are surprised how the Central Board of Excise and Customs after receipt of representations from trade, issued a clarification in July 1971 that small steel trays used for carrying food or beverages should not be considered as articles of steel furniture for the purpose of assessment of duty. The consideration which weighed with the Board was that it was an essential attribute of an article of furniture that it should be constructed for placing on the floor or ground. But earlier in January 1971, after considering the view of the Collectors and the trade practice, the Board had issued instructions that steel trays used for carrying food and/or beverages were assessable as articles of furniture. The view taken was that the criterion of being placed on the floor/ground was not decisive in the light of the judgment of the Gujarat High Court in a Sales Tax case of 'Binstakes' which the court held as furniture although Binstakes are not constructed for placing on the floor or ground. The Committee feel that having decided in January 1971

			to classify the steel trays as steel furniture after detailed consultations, there were no strong grounds to change the decision in July 1971. They would accordingly like Government to re-examine the matter forthwith. It should also be ensured that duty was collected on small steel trays not used for carrying food or beverages.
40	10.15	—Do—	In this connection the Committee note with concern that as many as 125 cases of evasion of duty to the extent of Rs. 11.35 lakhs by units manufacturing steel furniture were noticed during the period of six years from 1968. The Committee would, therefore, like to caution Government against allowing any scope for the steel furniture manufacturers to avoid or evade duty.
41	11.13	—Do—	The Committee are unhappy that in this case although the price of yarn spun from dyed wool tops was about 1½ times that of grey yarn, the former was assessed as latter under the executive instructions issued by the Board in July 1967. This resulted in short levy of duty amounting to Rs. 1,99,993 for the period from December 1966 to January 1972 in respect of one mill (Bengal National Textile Mills) alone. It is regrettable that the Board issued instructions without obtaining technical opinion and having no regard to the price factor. This seriously requires explanation and fixation of responsibility under advice to the Committee.
42	11.14	—Do—	The Committee note that the amendments to notifications were issued on 7th July, 1973 and 1st September, 1973, to bring the woollen yarn spun from dyed wool at par with the woollen yarn

1	2	3	4
			dyed after spinning for the purpose of determining the rate of duty and tariff values. The situation has therefore been remedied. The Committee fail to understand and entirely deprecate the delay of over 6 years in doing so. This even gives rise to unpleasant suspicion. They desire that such instances should not recur.
43	11.15	Ministry of Finance (Department of Revenue & Insurance)	In paragraph 1.25 of the 111th Report (4th Lok Sabha) the Committee had suggested that Tariff schedules should be left to be framed by Parliament and the tendency to sub-divide the tariff through notifications should be stopped. The Committee were informed in October, 1970 that steps were being taken to review the existing sub-divisions brought about by notifications and that in respect of such of those as were of a permanent nature, Government would consider making them a part of the Tariff. This matter, thus, is hanging fire for almost five years and the Committee would like to have a detailed report on the outcome of the review immediately.
44	12.12	—Do—	The Committee understand that the Ministry of Law have opined in another case that even under rule 56-A of the Central Excise Rules, as it stood before 1.1.1969, the use of raw material/component parts in the finished product is a precondition for availing of the credit in the proforma account. Therefore, the Committee are of the view that in the present case, as the hardened technical oil was exempt from duty and it was not actually used

			by the factory (M/s. Swastik Oil Mills) for the manufacture of the finished product 'Soap', the permission granted to follow the proforma credit procedure and adjustment of duty on soap against the credit available in the proforma account was irregular. In this connection, the Committee would like Government to examine whether there was any other case of irregular application of Rule 56A in the Collectorates concerned or in other Collectorates prior to 1969 and report to the Committee.
45	12.13	—Do—	The Committee are unhappy over the delay of two years on the part of the Collector in referring the matter to the Board after giving permission to the party in May 1968 to avail themselves of proforma credit procedure. The Board took another 8 months to give the advice. The demand for duty amounting to Rs. 65,672 issued on 2nd March, 1971 has not yet been enforced. The net result is that the amount of credit irregularly received by the factory in May, 1968 has not been recovered so far. The Committee require that responsibility for the delay at various levels should be fixed for appropriate action under advice to them.
46	12.24	—Do—	The Committee regret to observe that the Excise Department failed to detect in this case that the factory of Bakelite Hylam Ltd., Hyderabad had been, since March 1969 irregularly appropriating the credit due in respect of paper and resin for clearance of fabric-based laminates in the manufacture of which neither paper nor resin was used. The irregularity was pointed out by the Accountant General's Audit Party in their Inspection Report as early

1	2	3	4
			as on 29th December, 1970. The irregular credit availed of by the factory from March, 1969 to 31st July, 1971 worked out to Rs. 4,70,336. It is unfortunate that the irregularity did not come to notice (if it was genuinely so) during the inspection of the factory by the Assistant Collector and the Collector after March, 1969.
47	12.25	Ministry of Finance (Department of Revenue & Insurance)	The Committee are unhappy that after the irregularity was pointed out by Audit in December, 1970 there was inordinate delay in issuing "show cause notice" to the party who was allowed to continue the irregular practice upto 31st July, 1971. This gives rise to serious suspicion of collusion. The Committee desire that responsibility should be fixed for appropriate penal action under advice to them.
48	12.26	—Do—	The Committee note that recoveries from Bakelite Hylam Ltd., are being re-credited to the proforma account. According to Audit a recredit in the proforma account amounts to a refund to the factory which can be done only under the provisions of Rule 11. Further affording credits in the proforma account without stock of material for which the credit has been afforded in the proforma account is not in consonance with Rule 56A. The Committee desire that the position may be explained in consultation with Audit.

49	13.13	—Do—	The Committee are surprised that in this case a coarse grain plywood factory (Oriental Timber Industries, Cochin) using a hydraulic press operated by manual labour was permitted to avail itself of the special procedure to pay duty at a monthly compounded rate of Rs. 90 per hand press which was fixed in 1966. The factory's actual production of 87469 sq. metre (valuing Rs. 5,05,317) in 1969-70 if assessed at tariff rates would have brought Government duty amounting to Rs. 39,734 as against Rs. 1080 actually collected at the compounded rate. The Committee have been informed that there was another factory in the same collectorate using hydraulic press, whose production compares more or less with the production of the unit referred to in the Audit paragraph. They also note that the question whether the units which employ hand operated hydraulic press, should as a class, be excluded from the purview of the compounded levy scheme is under examination. It is strange that despite considerable leakage of revenue, since 1966, the question has been clearly lost sight of all these years. The Committee cannot but take a serious view of such laxities in the Excise Administration. It should be examined whether the application of compounded rate to the units employing hydraulic presses *ab initio* was proper.
50	13.15	—Do—	The Committee find that the compound rate of Rs. 90 per month was fixed on the basis of the recommendation of the Director of

1	2	3	4
			Inspection who made a detailed factual study of the nature of the equipment used, extent of production per hand press and the average price realised only in one collectorate *i.e.* Calcutta and Orissa Collectorate. If the object was to fix a uniform rate of compounded levy, the survey should not have been confined to one collectorate.
51	13.15	Ministry of Finance (Department of Revenue & Insurance)	The Committee are unhappy over the delay in revising the rate of duty fixed in 1966. Although the price increase of all varieties of plywood was about 16 per cent during the period 1969 to 1972—the increase would have been far higher between 1966 and 1973—Government revised the rates of compounded levy only in 1973. The Committee wish to emphasize that compounded levy system can be worked successfully only if the department carries out a periodical review of the rates fixed to see, whether having regard to the market condition and the type and quantity of goods produced, the rates are realistic. Such a review of all the commodities is called for immediately.
52	13.16	—Do—	Incidentally, the Committee find that 5 of 124 factories manufacturing coarse grain plywood on hand presses have chosen to remain out of the compounded levy scheme. It should therefore be seen whether the normal procedure allows any scope for evasion of duty. This question as well as the recommendations of the Self Removal Procedure Committee regarding alternatives to the compounded levy

			scheme to check avoidance of duty, should be examined speedily and the outcome reported to the Committee.
53	14.9	—Do—	The Committee note that according to the opinion of the Ministry of Law, merchants who send a grey semi-processed cotton or artificial silk fabrics and other such goods for processing into finished goods on their behalf should be treated as manufacturers and would be subject to excise controls and formalities. But considering the practical difficulties in licensing a large number of merchants, the Board issued instructions in May 1970, making licensing optional for such merchants. In cases when processing factories already licensed undertook to observe the excise formalities, the merchant manufacturers were not to be subjected to licensing control. The Committee note the administrative difficulty in this regard. But they regret to observe that instead of amending the Rules suitably the Board have exceeded their authority by issue of executive instructions and foregone revenue in the shape of licence fees. The Committee desire that the necessary amendment to the Rules should be made forthwith.
54	15.10	—Do—	The Committee deeply regret that in this case Government through an exemption notification changed the very basis of duty approved by Parliament, although Government are not empowered to do this. With reference to the recommendation made in paragraph 2.108 of their 72nd Report (4th Lok Sabha), the Attorney General had opined in 1970 that Government had no powers under Rule 8 of the Central Excise Rules to alter the *ad valorem* rate of duty into a specific rate or *vice versa* by issue of notification.

1	2	3	4
55	15.11	Ministry of Finance (Department of Revenue & Insurance)	In the present case, the tariff rate in respect of motor vehicles under item 34 provides for levy at specific rate or *ad valorem* whichever is higher. As against this, the rate announced by Government vide a notification issued in 1972 under Rule 8(1) of the Central Excise Rules, provides for leavy at specific rates or *ad valorem*, which is lower. By changing the mode of levy from higher of the two rates to lower of the two, the Government has changed the very basis laid down by Parliament.
56	15.12	—Do—	The Committee require that action should be taken to modify the notification. The Committee desire that a review should be carried out to find out in how many cases the notifications already issued are not in conformity with the opinion of the Attorney General and necessary steps taken to rectify the position.
57	15.13	—Do—	The Committee have been informed that the excise revenue foregone during the year 1971-72, on account of exemptions from duty granted under Rule 8(i) of the Central Excise Rules, amounted to as much as Rs. 244.84 crores and that there were 285 exemption notifications (including conditional exemptions) in operation during the year 1971-72 reducing the duty rates to nil. The Committee are concerned to note that the excise duty foregone is steadily on the increase year after year. This would indicate that at present the executive enjoys an unfettered right to grant exemptions from duty

			which, in the opinion of the Committee, tends to vitiate the intentions of the legislature, besides complicating the tariff and also providing an opportunity for different and sometimes dubious types of pressure groups to influence taxation proposals.
58	15.14	—Do—	In view of the far-reaching implications of duty exemptions granted through executive notifications, the Committee, in paragraph 1.25 of their 111th Report (Fourth Lok Sabha), had *inter alia*, suggested that all operative exemptions, whether granted by notification or special orders, should be reviewed as an exercise preliminary to their rationalisation and the Committee had been assured by the Ministry of Finance, in the Action Taken Note, that instructions were being issued to undertake a review of all notifications. The Committee have also been informed subsequently that a review of all exemptions would be made to determine the reasons for the exemptions and to withdraw them if they were found to be unjustified. The Committee trust that the Ministry of Finance will fulfil this assurance of theirs on a top priority basis and ensure that exemptions from duty are allowed, on a scientific basis, only when it is absolutely necessary and unavoidable. The Committee will await a further report in this regard.
59	15.15	—Do—	The Committee had also suggested in the same report that the power given to the executive to modify the effect of the statutory tariff should be regulated by well-defined criteria which should, if possible, be written into the Central Excise Bill then before Parliament. This recommendation had also been reiterated in paragraph

1	2	3	4
			1.9 of the 31st Report (Fifth Lok Sabha). The Committee have been informed by the Ministry of Finance, in the Action Taken Note, that it was not possible to spell out any definite guidelines in law with regard to the power of exemption and that if the guidelines are much too broad and couched in very general terms, the purpose which the Public Accounts Committee has in view may not be served; on the other hand, if the guidelines are somewhat detailed they would tend to be rigid and might create difficulty in actual practice. In view of the wide powers at present given to the executive to grant exemptions and as a safeguard against possible abuses of such powers, as well as the other far-reaching implications of duty exemptions, the Committee attach considerable importance to this recommendation of theirs and are unable to accept the contention of the Ministry. The Committee are of the view that it should be possible to lay down well-defined criteria to regulate the grant of exemptions. The Committee accordingly desire that this should be re-examined in detail by Government and specific guidelines prescribed in this regard.
60	15.16	Ministry of Finance Deptt. of Revenue & Insurance)	The Committee are perturbed at prolonged indifference to their earlier findings and strongly reiterate another earlier recommendation of theirs contained in paragraph 1.13 of their 31st Report (Fifth Lok Sabha), wherein the Committee had desired that Government should obtain prior parliamentary approval at least in cases where

			the revenue involved by issuing notifications under Rule 8(i) of the Central Excise Rules is substantial or when the exemption notifications have a recurring effect on revenue or where the exemptions could be postponed. Keeping in view the administrative constraints in this regard, the Committee would suggest that all exemptions involving a revenue effect of Rs. 1 crore and more in each individual case should be given only with the prior approval of Parliament. In any case, the financial implications of all exemption notifications in operation should be brought specifically to the notice of Parliament by Government, at the time of presentation of the budget.
61	16.8	—Do—	The Committee are unhappy over the irregular permission granted to the Indian Oil Corporation to manufacture without payment of duty light diesel oil by blending high speed diesel oil and furnace oil without declaring the installation as "Refinery" as required under the Rules and then the delay of about two years in declaring it as "Refinery". The Committee consider that delays and mistakes of such nature are costly and should be avoided in future.
62	16.9	—Do—	The Committee feel that the grounds on which blending operations were allowed to this oil installation, namely, that it would be in the national interest and there would be substantial savings in foreign exchange, are vague. The Committee would like to be apprised of the extent of saving in foreign exchange and also the mode of saving effected. They would also like to know whether such blending operations proved to be profitable to the Indian Oil Corporation.

1	2	3	4
63	16.10	Ministry of Finance (Department of Revenue & Insurance)	Blending operations are allowed by declaring certain oil installations as refineries. This is apparently done under the delegated executive authority. The authority delegated seems to the Committee to be unfettered in the sense that it could be used to favour any oil company or could be employed in public interest. The Committee would urge that suitable safeguards should be incorporated in the Law against the abuse of this authority.
64	17.10	—Do—	The Committee regret that the local officers who were clearing the chassis of cars did not even notice that the automobile factory (Hindustan Motors Ltd.) was not paying duty on the bodies built by outsiders on behalf of the factory, although under the contract with the customers the factory was charging price for vehicles complete with bodies. The irregularity came to notice only when it was pointed out by Audit. The Committee note that show-cause notices for demands amounting to Rs. 1,81,933 have been issued to the factory. The Committee would like to know about the recovery made by the Department in respect of those drive-away chassis where the cost of bodies built by outside body builders on behalf of the customers was charged by the factory in the same voucher as that of drive-away chassis. The Committee regret to observe that this is a cunning way of cheating which must not pass muster. The Committee are amazed how the authorities failed to detect this kind of fraud.

65	17.11	—Do—	The Committee note that after the matter was discussed by them, Government in their 1974 budget proposals, increased the rate of duty on drive-away chassis by 25 per cent of the rate of duty applicable to the fully assembled vehicles. It appears strange that Government were not aware of the clearance of drive-away chassis before Audit pointed it out. According to the Ministry there is no need to bring the body builders under excise control for levy of duty on the value of body superstructure. The Committee feel that necessary steps to plug the loophole should have been taken earlier after it was brought to the notice by Audit in July, 1972.
66	18.16	—Do—	The Committee regret to observe that this is a clear case of abuse of the Board's notification issued in May, 1967 providing for exemption of excise duty to factories not employing more than 49 workers or consuming power not more than 2 Horse Power. The Committee find that Bata Shoe Co. (P) Ltd., the main footwear manufacturing company got footwear processed by two small local firms coming within the exemption limit and receiving back finished goods sold them under their brand name. Bata Shoe Co. (P) Ltd. has been thus cunningly evading excise duty and cheating the exchequer. The total amount of duty avoided from May, 1968 to April, 1973 works out to Rs. 10,64,597. The Committee have been informed that two other major manufacturers are also following a similar practice, which has resulted in avoidance of duty amounting to Rs. 7,51,717 from the period May, 1968 to April, 1973.
67	18.17	—Do—	The Committee are surprised that the Ministry of Finance did not at all bother to bring to the notice of the Ministry of Industrial

1	2	3	4
			Development this specific case of Bata Shoe Co. (P) Ltd. taking advantage of the exemption granted to small scale units, when the latter proposed to liberalise the existing exemption limit for small scale units from 2 H.P. to 50 H.P. The Finance Ministry had brought to the notice of the Ministry of Industrial Development only in a general way that big manufacturers were taking undue advantage of the existing exemption. The contention of the Ministry of Industrial Development that the big manufacturers are helping the small manufacturers in marketing their production efficiently is not at all correct, in this case, as the work entrusted to the small scale manufacturers manned by their own men is only a job work and the finished product is marketed in the brand name of the large scale manufacturer. It is regrettable that although the Board were made aware of the undue advantage taken by the large scale manufacturers in July, 1967, no effective action has been taken to modify the notification. The Committee desire that necessary action should be taken to fix responsibility in this case in consultation with the Central Vigilance Commission under advice to them. The Committee also desire that the question of modifying the notification suitably should at once be taken up and finalised.
68	19.8	Ministry of Finance (Department of Revenue & Insurance)	The Committee find that every year Government have been foregoing substantial amount of excise revenues on account of what is called the operation of time bar. The amount of loss during the

			years 1969-70, 1970-71 and 1971-72, has been Rs. 1.02 lakhs, Rs. 226.75 lakhs and Rs. 5.54 lakhs respectively. The Committee note that there had been a substantial improvement in the position during 1971-72. They, however, regret to note that in spite of an assurance given by the Finance Secretary during the course of evidence that efforts would be made to maintain this improvement, the position is unsatisfactory even after the enhancement of the time limit from three months to one year under the Self Removal Procedure. During the subsequent year, 1972-73, there has been a loss of Rs. 5.94 lakhs on account of operation of the time bar as against Rs. 5.54 lakhs during the previous year. From a study of a few selected cases, the causes leading to such loss of revenue are human failure, laxity of staff, absence of contact with the licensees' work and failure to grasp the implications of various orders.
69	19.9	Ministry of Finance (Department of Revenue & Insurance)	The Committee feel that the Government should analyse the reasons for the losses on account of operation of time-bar and the reasons for not taking timely action to issue show-cause notices/ demands. By such analysis and study it should be possible to locate areas of failure, laxity etc. and remedy the situation. The endeavour should be to avoid any amount of duty lost solely on the ground of technical lapse of time. They hope that such a study would be undertaken by the Directorate of Inspection under the Board of Excise and Customs.
70	20.15	—Do—	The Committee note that the total amount of arrears of Union Excise duties stood at Rs. 51.69 crores as on 31st March, 1972 as against

1	2	3	4
			Rs. 52.29 crores as on 31st March, 1971. Although the amount of arrears as on 31-3-1972 are slightly less than that as on 31-3-1971, the position is far from satisfactory.
71	20.16	Ministry of Finance (Department of Revenue & Insurance)	The Committee find from the list of defaulting parties furnished by the Ministry of Finance that among the main defaulters are Public Sector Undertakings such as Indian Oil Corporation, FACT, Hindustan Steel Ltd., Madras Refineries Ltd. etc. Further, out of all arrears of Rs. 29.93 crores in respect of 'all other commodities', an amount of Rs. 16.84 crores is accounted for by Public Undertakings (each owing more than Rs. one crore) *viz.*, Indian Oil Corporation, Noomati (Rs. 5.08 crores), Cochin Refineries (Rs. 1.08 crores), Bharat Earth Movers Ltd. (Rs. 2.83 crores), Madras Refineries Ltd. (Rs. 3.68 crores) and Madras Fertilisers (Rs. 4.17 crores). The Committee desire the Central Board of Excise & Customs to examine the reasons for non-recovery of arrears from the Public Undertakings. The reasons for non-recovery of an amount of Rs. 2.35 crores due from 45 units under the management of foreign concerns must also be seriously analysed. The Committee would like to be informed of the progress made in the recoveries immediately.
72	20.17	—Do —	One of the reasons for accumulation of arrears is disputed assessments. The Committee have been informed that a proposal is under examination to make payment of duty obligatory before final appeal

			in the disputed assessments. The Committee require that the examination should be immediately expedited and the outcome reported to them. The Committee have also been informed that it is proposed to have three more appellate collectorates to bring down the arrears at appellate stage. Besides a post of Joint Secretary is being created in the Ministry for disposing of revision applications. The Committee desire that the question of speedy disposal of disputed assessments should be constantly kept under review. They would like that the pendency of the outstanding cases is substantially reduced in the shortest possible time.
73	20.18	—Do—	The Committee consider that some positive steps are also necessary to speed up disposal of revenue cases by courts. In a case brought to the notice of the Committee, a petition filed by a private steel manufacturing company, Tata Iron and Steel Company, in the High Court in November 1967 against levy of higher rate of duty on skelp was finally disposed of in December 1973, *i.e.*, after more than 6 years and after the Public Accounts Committee had made enquiries about this case and probed into (a) the reasons for the delay, and (b) the reasons for not appealing against the stay order which, in the circumstances of this case, was exploited by the company to its own advantage by collecting the duty from the customers and not paying it to Government.
74	20.19	—Do—	While the Committee note that Government have now come forward with a proposal in the Finance Bill for the collection of the duties held back by the assessees, there is, however, no provision at present in the Central Excise Act, according to the information

1	2	3	4
			furnished to the Committee, for levying interest if the duty was not paid on the due date, at the time of clearance of excisable goods. The Committee feel that this is a lacuna that needs to be remedied by amending the Act. The rate of interest to be charged for the late payment of duties should be the commercial rate of interest on borrowings. Government should also examine the feasibility of making a provision in the Act for the collection of interest at commercial rates, in cases in which the recovery of duties had been stayed by courts of law, on writs filed by assessees and the cases are subsequently decided in favour of Government. The Committee consider such a provision necessary in view of the fact that in such instances, moneys that are legitimately due to the Government are available with the assessees, often for long periods, to be reinvested in their own business activities.
75	20 20	Ministry of Finance (Department of Revenue & Insurance)	Instances have also come to the notice of the Committee wherein the rectification of even patent mistakes and collection of taxes and duties have been thwarted by assessees seeking legal remedies on mere technical grounds. The Committee have been informed that, with a view to ensuring speedy disposal of cases relating to economic offences, the Law Commission had recommended, in paragraph 9.9 of its 47th Report on the Trial and Punishment of economic offences, the establishment of special courts, having a special procedure for the effective and speedy prosecution of all the economic

offences under all the major Acts, by a comprehensive legislation. While the Committee would like to know the action taken by Government on this recommendation of the Law Commission, they would also like Government to examine whether any amendment to the Acts governing the collection of Indirect Taxes is necessary to ensure that the rectification of patent mistakes is not frustrated by assessees on mere technical grounds. With reference to a similar recommendation made by them in relation to disputes under the Income-tax Act, in paragraph 2.30 of their 128th Report (Fifth Lok Sabha), the Committee had been informed by the Department of Revenue and Insurance that the Direct Taxes Enquiry Committee (Wanchoo Committee) had also recommended that revenue matters, in respect of which adequate remedies were provided in the respective Statutes themselves, should be excluded from the purview of Article 226 of the Constitution and that this recommendation was being examined by Government. Since this has relevance to the administration of the Acts relating to Indirect Taxes also, the Committee desire that this recommendation should also be examined by the Central Board of Excise and Customs, in close coordination with the Central Board of Direct Taxes, and necessary amendment proposed early, as such a measure would greatly facilitate the collection of revenues.

GMGIPND—LS-II—1440 LS—29-12-75—1080.